

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Nineteenth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.491 of 2018

IN CRL RC.68/2018

SYED NAZEER,

[PETITIONER]

Vs

THE ASSISTANT DIRECTOR,
INDUSTRIAL SECURITY & SAFETY,
(INSPECTOR OF FACTORIES),
HOSUR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC No.68 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of three months simple imprisonment imposed by order dt 2/5/16 and made in STC.15/09 on the file of Chief Judicial Magistrate, Krishnagiri as confirmed by order dt 3/10/16 and made in CA.25/16 on the file of Principal District Sessions Court Krishnagiri, pending disposal of the above CRL.RC.68/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.68 of 2018 on the file of the High Court and upon hearing the arguments of MR.N.A.NISSAR AHMED, Advocate for the petitioner the court made the following order:-

The petitioner was convicted for the offence u/s. 6(1)(d)(e) r/w 4 (1)(2) Section 11(1) r/w R12 (b)(5), Sec.6(1)(a)(aa)(b)(c) r/w R3 (1)(2) and Sec.31(1)(2)r/w R.56 (7)(9)(b) of the Factories Act and sentenced him to undergo 3 months S.I. for each offence by the learned Chief Judicial Magistrate, Krishnagiri, in S.T.C.No.15 of 2009. The conviction and sentence imposed by the trial Court was confirmed by the learned Principal District and Sessions Judge, Krishnagiri, in C.A.No.25 of 2016 dated 03.10.2016. Hence, petitioner seeks suspension of sentence.

2. Learned counsel submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by this

Court. The decisions of the Honourable Apex Court in **BIHARI PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380)** and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

3. Heard learned Government Advocate on the submissions made by learned counsel for the petitioner.

4. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

5. Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision as contended by the learned counsel for the petitioner and further the revision is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Krishnagiri and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

-sd/-
19/01/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI.

2 THE PRINCIPAL DISTRICT
SESSIONS COURT, KRISHNAGIRI.

C.C. to M/S.N.A.NISSAR AHMED Advocate on payment of necessary charges

Order

in
CRL MP.491/2018

in
CRL RC.68/2018

Date :19/01/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
ths : 19.01.2018