

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.17842 of 2018

Kantha Kumar

... Petitioner/Appellant

Vs

The State rep by
The Inspector of Police
J-6, Thiruvanmiyur Police Station
Chennai.

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.MP.No.10313 of 2018 & Crl.MP.No.17209 of 2017 in C.A.No.330 of 2017 on the file of the learned Principal Sessions Judge, Chennai dated 03.07.2018 and extend the time for furnishing the sureties to the petitioner.

For Petitioner : Mr.S.Sugendran
For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 03.07.2018 passed in Crl.MP.No.10313 of 2018 & Crl.MP.No.17209 of 2017 in C.A.No.330 of 2017 by the Principal Sessions Judge, Chennai and extend the time for furnishing the sureties to the petitioner.

2. Today, Mr.K.Ramesh, Sub-Inspector of Police, J6, Thiruvanmiyur Police Station, Chennai, is present before this Court.

3. The petitioner herein was convicted in C.C.No.5834 of 2010 on 10.10.2017 by the XVIII Metropolitan Magistrate, Saidapet, Chennai, for the offence under Section 326 IPC and sentenced to undergo 1 year Rigorous Imprisonment and pay a fine of Rs.200/-, in default to undergo 1 month Simple Imprisonment. On the date of conviction and sentence, the petitioner did not file an application for suspension of sentence and therefore, the petitioner was remanded to custody. The petitioner paid Rs.200/- and filed C.A.No.330 of 2017 against C.C.No.5834 of 2010 along with Crl.MP.No.17209 of 2017 for suspension of

sentence, in which, the Principal Sessions Judge, Chennai, by order dated 08.11.2017, suspended the sentence and enlarged the petitioner on bail, on condition that he should execute a bond for Rs.10,000/- with 2 sureties to the satisfaction of the XVIII Metropolitan Magistrate, Saidapet, Chennai, within two weeks from the date of that order. Since the petitioner was not able to execute the bond within two weeks, he continues to be in incarceration. Under such circumstances, the petitioner is before this Court.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side).

5. It is seen that the petitioner had filed three applications for extension of time, but, of no avail. In the opinion of this Court, only when an order of anticipatory bail is granted, the Court will direct the accused to surrender before the Magistrate within a time period. When a regular bail is granted, there is no necessity to impose such condition. It is very unfortunate that the Sessions Judge had failed to take note all these aspects and mechanically extended the time period twice and on the third occasion, declined to extend the time period.

6. In the result, this petition is allowed and the time period of two weeks fixed by the Principal Sessions Judge, Chennai in Crl.MP.No.17209 of 2017 in C.A.No.330 of 2017 in C.C.No.5834 of 2010 stands deleted. It is open to the petitioner to furnish sureties at any time and seek his release. After his release, the petitioner shall appear before the Principal Sessions Court, Chennai in C.A.No.330 of 2017 on all hearing dates. The Principal Sessions Judge, Chennai, is directed to call for records from XVIII Metropolitan Magistrate, Saidapet, Chennai-15, expeditiously and dispose of the appeal in C.A.No.330 of 2017 within six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Sessions Judge,
Chennai.
- 2.The XVIII Metropolitan Magistrate,
Saidapet, Chennai.
3. The Inspector of Police
J-6, Thiruvanmiyur Police Station
Chennai.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.SUGENDRAN, Advocate, S.R.No.47506

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TR(18/07/2018)



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