

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixteenth day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.10450 & 10452 of 2019

in CRL.R.C.NO.746 OF 2019

A.ABDUL SAMADH

[PETITIONER]

Vs

THE STATE REPRESENTED BY
THE CHIEF ENFORCEMENT OFFICER,
ENFORCEMENT DIRECTORATE,
SHASTRI BHAVAN,
CHENNAI-6.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.746/2019 on the file of the High Court, the High Court will be pleased to

[I]suspend the order of conviction passed by the Honourable Principal Sessions Judge, City Civil Court dismissing Crl.Appeal No.90/2009 vide Judgement dated 11.03.2019 and confirming order of E.O.C.C. No.443/2004 by C.M.M., Egmore, pending disposal of the above criminal revision case.[CRL.MP.NO.10450/2019]

[II]exempt the petitioner from surrendering before the learned Additional Chief Metropolitan Magistrate,EO-II,in CC.NO.443 OF 2004 as per order dated 29.04.2009 pending disposal of the above criminal Revision case.[CRL.MP.NO.10452/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No. on the file of the High Court and upon hearing the arguments of M/S. VENKATESH V.S. Advocate for the petitioner and of MR.KRITIKA KAMAL.P Government Advocate[crl.side] on behalf of the Respondent the court made the following order:-

While the petition in Crl.M.P.No.10450 of 2019 is filed seeking to suspend the sentence imposed on the petitioner, by judgment and order dated 29.04.2009 passed in E.O.C.C.No.443 of 2004 on the file of the Additional Chief Metropolitan Magistrate Court E.O.-II, Egmore, Chennai, confirmed by the judgment and order dated 11.03.2019 passed in C.A.No.90 of 2009 on the file of the Principal Sessions Court, City Civil Court, Chennai and to enlarge the petitioner on bail, the petition in Crl.M.P.No.10452 of 2019 is to exempt the petitioner from surrendering before the Sessions Court, pursuant to

the said judgment and order, pending disposal of the revision petition.

2. The petitioner, who was an accused in E.O.C.C.No.443 of 2004 before the Additional Chief Metropolitan Magistrate Court E.O.-II, Egmore, Chennai, was convicted of the offence under Section 8 (1) r/w 56 (1) (i) of the FERA, 1973 and was sentenced to undergo two years rigorous imprisonment and fine of Rs.50,000/-, in default to undergo three months rigorous imprisonment. The appeal in C.A.No.90 of 2009 filed by the petitioner has been dismissed by the Principal Sessions Judge, Chennai, on 11.03.2019.

3. Challenging the conviction and sentence imposed by the Courts below, the petitioner is before this Court under Section 397 r/w 401 Cr.P.C. and seeking exemption from surrender and suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the petitioner has paid the fine and therefore, the substantive sentence of imprisonment was suspended by the Trial Court under Section 389 (3 Cr.P.C.

5. When in a case, where, concurrent finding of guilt, this Court would not grant exemption from surrender and would insist upon the accused to surrender to custody and seek suspension of sentence and bail. However, in this case, the learned counsel for the petitioner submitted that the petitioner is afflicted by cancer and is under intensive treatment. Therefore, this Court directed the Department to file a report on this aspect. The Department has filed a report, which reads as under:

"Report of the Cancer Institute (WIA), Adyar, Chennai

As per the directions of the Hon'ble High Court, Madras, the Cancer Institute (WIA), Adyar, Chennai was visited for ascertaining the present health condition of the petitioner, i.e., Mr.Abdul Samadh. It was confirmed by the Institute Authority that Mr.Abdul Samadh has been diagnosed with Cancer and is undergoing treatment in the hospital. A printout of the medical record of Mr.Abdul Samadh with UHID No.44804 was obtained from the institute and is attached herewith."

6. The petitioner has raised substantial grounds in the revision petition which require detailed appraisal. Further, the revision petition is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the reliefs of exemption from surrendering before the Sessions Court and suspension of sentence and bail.

7. Accordingly, the reliefs of exemption from surrendering

before the Sessions Court and suspension of sentence and bail are granted on the following conditions:

(i) The petitioner shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner is ordered to be released on bail on he executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Additional Chief Metropolitan Magistrate E.O.-II, Egmore, Chennai.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the VI Additional Sessions Court, Chennai, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m. until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

-sd/-

16/08/2019

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.

सत्यमेव जयते

TO

1 THE ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE, E.O.-II,
EGMORE, CHENNAI

2 THE PRINCIPAL SESSIONS JUDGE
CITY CIVIL COURT, CHENNAI

3 THE SPECIAL PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

WEB COPY

4 THE STATE REPRESENTED BY
THE CHIEF ENFORCEMENT OFFICER,
ENFORCEMENT DIRECTORATE,
SHASTRI BHAVAN, CHENNAI-6.

5 THE VI ADDITIONAL SESSIONS
COURT, CHENNAI

+1 C.C. to M/S. VENKATESH V.S. Advocate on payment of
necessary charges SR.NO. 17097

+1 O/O OF THE SPECIAL PUBLIC PROSECUTOR SR.NO. 17181

Order

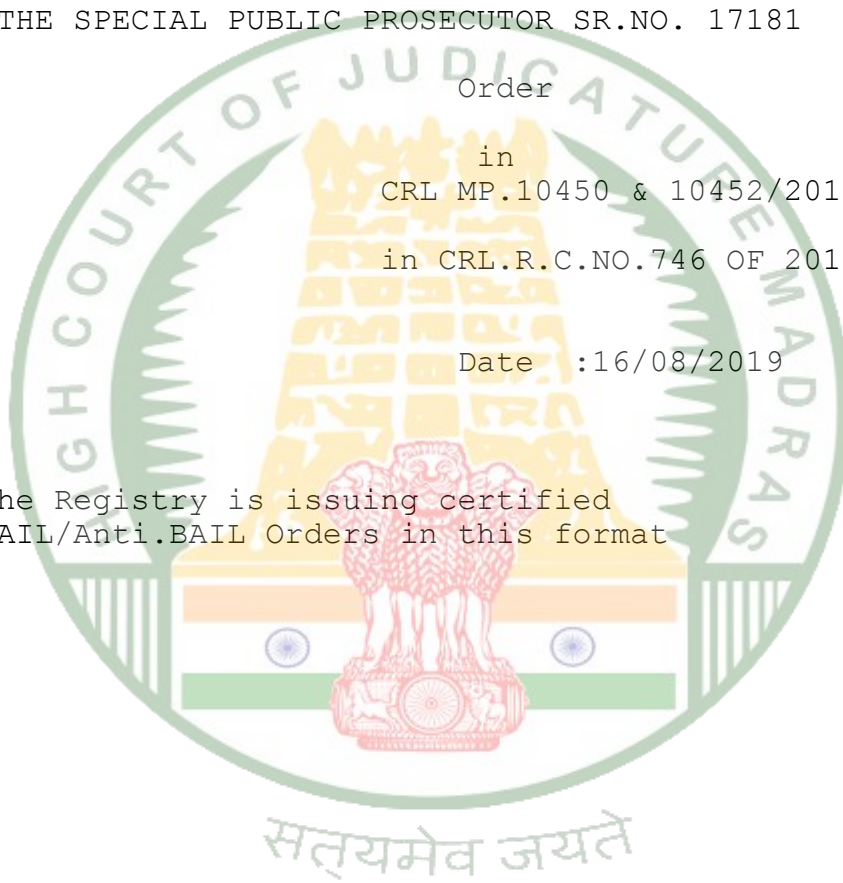
in

CRL MP.10450 & 10452/2019

in CRL.R.C.NO.746 OF 2019

Date :16/08/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 21/08/2019



WEB COPY