

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.12378 of 2019

IN CRL RC.833/2019

MOHAN @ KUTTIYA MOHAN

[PETITIONER]

Vs

1 STATE REP BY
THE INSPECTOR OF POLICE
M-5 ENNORE POLICE STATION
CHENNAI-57.

[RESPONDENTS]

2 THE EXECUTIVE MAGISTRATE,
DEPUTY COMMISSIONER OF POLICE,
MADHAVARAM,
CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.833/2019 on the file of the High Court, the High Court will be pleased to grant suspension of sentence proceedings pertaining to M.P.No.13/2019, in RC No.249/Sec.Pro/DCP MVM/2019 in M5 Ennore Police Station, SI.No.57/2019/U/s.107 Cr.P.C dated 06.08.2019 enlarge him on bail pending disposal of the above Crl.RC.No.833/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.833/2019 on the file of the High Court and upon hearing the arguments of M/S.K.MANI KANDAN, Advocate for the petitioner and of MR.M.MOHAMED RIAYZ, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondents the court made the following order:-

1.This Criminal Miscellaneous Petition has been filed, seeking suspension of sentence and to enlarge the Petitioner on bail, in connection with the order dated, 06.08.2019, passed by the 2nd Respondent, Executive Magistrate Cum Deputy Commissioner of Police, Madhavaram District, in MP.No.13 of 2019 in RC No.249/Sec.Pro/DCP MVM/2019.

2.This court heard the learned counsel on either side and also perused the materials placed on record.

3.The case of the Prosecution is that the Petitioner had executed a bond, dated 05.05.2019, to maintain peace for a period of one year, along with two Sureties, in connection with Cr.No.396/2009 for the offences under Sections 147, 148, 448, 342, 307 IPC. While so, on 10.07.2019, during the period of bond, the Petitioner had committed

the offences under Sections 147, 148, 341, 294(b), 336, 427, 392 r/w 297, 506(ii)IPC, based on which, a case was registered in Cr.No.355 of 2019, by the 1st respondent/M5 Ennore Police Station. Since the Petitioner/ accused had violated the conditions of the earlier bail bond, dated 05.05.2019, undertaking not to involve in any crime for a period of one year, the Executive Magistrate Cum Deputy Commissioner of Police, Madhavaram, had conducted an enquiry and passed the impugned order, dated 06.08.2019, in MP.No.13 of 2019 in RC No.249/Sec.Pro/DCP MVM/2019, committing him to prison to undergo imprisonment for 270 days, under Section 122(1b) of Cr.PC. Hence, the present Criminal Revision has been filed, along with the above criminal miscellaneous petition, seeking suspension of sentence.

- 4.The learned counsel for the Petitioner/accused would submit that there are arguable points available in the Criminal Revision Case and that the revision petitions is not likely to be taken for final hearing in the near future and that the Petitioner has got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner/ accused may be suspended.
- 5.The learned Additional Public Prosecutor would vehemently oppose for granting suspension of sentence.
- 6.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, the substantive sentence of imprisonment imposed on the Petitioner/ accused alone is hereby suspended, till the disposal of the Criminal Revision Case and the Petitioner/ accused is hereby ordered to be enlarged on bail on the following conditions:-
 - i. The Petitioner/accused shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand only), with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Thiruvottriyur.
 - ii.The Petitioner//accused shall report before the Executive Magistrate Cum Deputy Commissioner, Madhavaram, Chennai, on every Monday at 10.30 a.m., until further orders.

-sd/-

19/09/2019

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.

TO

1 THE JUDICIAL MAGISTRATE,
THIRUVOTTIYUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
M-5 ENNORE POLICE STATION,
CHENNAI-57.

5 THE EXECUTIVE MAGISTRATE
DEPUTY COMMISSIONER OF POLICE,
MADHAVARAM, CHENNAI

6 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI

+1C.C. to M/S.K.MANI KANDAN Advocate on payment of necessary
charges SR.No.19542

Order

in
CRL MP.12378/2019

in
CRL RC.833/2019

Date: 19/09/2019

From 7.2.2001 the Registry is issuing certified
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