

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NO.12819 OF 2019

IN CRL.RC.NO.881 OF 2019

SUBHA

[PETITIONER / RESPONDENT]

Vs

1 THE EXECUTIVE MAGISTRATE CUM [RESPONDENTS / PETITIONERS]
DEPUTY COMMISSIONER OF POLICE,
MADHAVARAM RANGE,
CHENNAI CITY POLICE

2 STATE: INSPECTOR OF POLICE,
LAW AND ORDER,
M-5, ENNORE POLICE STATION
CHENNAI-57

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.881 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence and enlarge the petitioner on bail in M.P.No.08/2019 in RC.No.192/Sec.Pro/ DCP MVM/2019 dated 16.07.2019 on the file of the Executive Magistrate Cum Deputy Commissioner of Police pending disposal of the CRL.RC.NO.881 OF 2019 [IN CRL.MP.NO.12819 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.881 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.M.KAVERISELVAM, Advocate for the petitioner and of MR.M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent 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, 16.07.2019, passed by the 1st Respondent, Executive Magistrate Cum Deputy Commissioner of Police, Madhavaram District, in MP.No.08 of 2019 in RC No.192/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 02.04.2019, to maintain peace for a period of one year, along with two sureties, in connection with PS.Cr.No.1083 OF 2018. While so, on 01.07.2019, during the period of bond, the Petitioner had committed the offences under Sections 8(c) r/w 20 (b), (ii), (B) of NDPS Act 1985, based on which, a case was registered in Cr.No.334 of 2019, by the M5 Ennore Police Station. Since the Petitioner/ accused had violated the conditions of the earlier bail bond, dated 02.04.2019, undertaking not to involve in any crime for a period of one year, the Executive Magistrate Cum Deputy Commissioner of Police, Madhavaram, had passed the impugned order, dated 16.07.2019, in MP.No.08 of 2019 in RC No.192/Sec.Pro/DCP MVM/2019, committing him to prison to undergo imprisonment for 258 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/-

06/09/2019

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,
THIRUVOTRIYUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE EXECUTIVE MAGISTRATE CUM
DEPUTY COMMISSIONER OF POLICE,
MADHAVARAM RANGE,
CHENNAI CITY POLICE

6 THE INSPECTOR OF POLICE,
LAW AND ORDER,
M-5, ENNORE POLICE STATION
CHENNAI-57

+1C.C. to M/S.M.KAVERISELVAM Advocate on payment of necessary charges SR NO.18684

Order

in
CRL MP.12819/2019

in
CRL RC.881/2019

Date :06/09/2019

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