

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Ninth day of January Two Thousand Twenty
PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.306 of 2020

IN CRL.RC.NO.61 OF 2020

NIRMAL @ NIRMAL ANAND

[REVISION PETITIONER /
ACCUSED]

Vs

1 THE EXECUTIVE MAGISTRATE CUM [RESPONDENTS / COMPLAINANTS]
DEPUTY COMMISSIONER OF POLICE,
MYLAPORE DISTRICT,
CHENNAI.

2 STATE BY
INSPECTOR OF POLICE,
E2-ROYAPETTAH POLICE STATION,
CHENNAI-600 014.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.61/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence of 103 days passed by the Executive Magistrate Cum Deputy Commissioner of Police, Mylapore District, Chennai in Na.Ka.No.32/Nir.Se.Nadu.Ka.thu.Aa/Mylai District/2019 u/s.110 Cr.P.c enlarge the petitioner on bail pending disposal of the above Crl.RC.No.61/2020.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.61/2020 on the file of the High Court and upon hearing the arguments of M/S.M.R.JOTHIMANIAN, Advocate for the petitioner and of MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondents the court made the following order:-

The case of the prosecution is that on a complaint made by one Venkatesan, a case was registered against the petitioner in Crime No.520 of 2019 under Section 307 IPC by the second respondent police, pursuant to which the petitioner herein was arrested by the second respondent on 08.12.2019. On enquiry, it revealed that the petitioner had already involved in criminal cases in Crime No.792 of 2013 for the alleged offences under Sections 341, 294(b), 307 and 506(ii) IPC and in Crime No.63 of 2019 for offences under Section 75 of the City Police Act r/w 7(1)(A) Criminal Law Amendment Act. In view of the said involvement of the petitioner in these cases, the first respondent has invoked Section 110 of Cr.PC and directed the petitioner to execute a bond for his good behaviour for a period of

one year and the petitioner also executed a bond on 26.03.2019 to that effect. But on 08.12.2019, on receipt of an information, the second respondent arrested the petitioner in Crime No.520 of 2019 for the alleged offence under Section 307 IPC. Thereafter, upon forwarding a report by the second respondent to the first respondent with a request to invoke Section 122(1)(b) of Cr.PC, stating that the petitioner allegedly violated the bond conditions, the petitioner was directed to be produced on 19.12.2019. Accordingly, the petitioner was produced and explanation was asked for from him. Thereafter, the impugned order dated 19.12.2019 has been passed ordering the petitioner to be kept under judicial custody for a period of 103 days, after excluding 258 days out of 365 days, during which time he was with good behaviour.

2. Aggrieved by the impugned order, the petitioner has come up with the present revision. He has also filed a miscellaneous petition seeking suspension of sentence, pending disposal of this Criminal Revision.

3. The learned counsel for the petitioner has submitted that the petitioner and the de-facto complainant are neighbours and due to some neighbouring dispute, the occurrence was said to have taken place on 07.12.2019, but the said case was relied on by the first respondent for passing the order of detention dated 19.12.2019, when the fact remained that there was no involvement of the petitioner in respect of violating the public order. It is also specifically submitted that there is no material to show that the petitioner was involved in habitual offences and also against public peace and tranquillity in the area and hence there is no subjective satisfaction for passing such detention order and hence the impugned order is liable to be set aside. It is further submitted that no opportunity has been given to the petitioner before passing the order of detention.

4. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the respondents and also perused the materials placed on record.

5. Considering the facts and circumstances of the case and also taking note of the submissions made on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended subject to certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of suspension of sentence and bail are granted, on the following conditions:-

- a) The Petitioner/Accused is ordered to be released on bail, on his 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 learned Executive Magistrate cum Deputy Commissioner of Police, Mylapore District, Chennai;

b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Executive Magistrate cum Deputy Commissioner of Police, may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

c) The petitioner/accused shall appear before the second respondent Police Station twice daily, ie., at 10.30 a.m. and 05.00 p.m., until further orders.

-sd/-

29/01/2020

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 EXECUTIVE MAGISTRATE CUM
DEPUTY COMMISSIONER OF POLICE,
MYLAPORE DISTRICT, CHENNAI.

2 THE INSPECTOR OF POLICE,
E2-ROYAPETTAH POLICE STATION,
CHENNAI-600 014.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

+1 C.C. to M/S.M.R.JOTHIMANIAN Advocate on payment of necessary
charges SR.No.1710

Order

in
CRL MP.306/2020

in
CRL.RC.61/2020

Date :29/01/2020