

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15..05..2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.M.P.No.3945 of 2020

in

CrI.R.C.No.488 of 2020

S.Rahman

... Petitioner

-Versus-

1.The First Class Executive Magistrate,
Revenue Divisional Officer,
Udumalpet,
Tiruppur District.

2.Mr.Omprakash,
Inspector of Police,
Udumalpet Police Station,
Tiruppur District.

... Respondents

Petition under Sections 397(1) r/w 439 of Cr.P.C. praying to suspend the order passed by the 1st respondent dated 26.02.2020 in M.C.No.03/2020/A2 and enlarge the petitioner on bail pending criminal revision case.

For Petitioner : Mr.S.Saravanan

For Respondents : Mr.K.Madhan, GA (CrI.
Side)

ORDER

This miscellaneous petition has been filed seeking to suspend the sentence and enlarge the petitioner on bail.

2. The main revision petition has been filed challenging the order of the 1st respondent - Executive Magistrate cum Revenue Divisional Officer, Udumalpet, under Section 122(1)(b) of the Code of Criminal Procedure.

3. Earlier the petitioner was directed to execute a bond for good behaviour under Section 110 of Cr.P.C. Pursuant to the same, the petitioner had also executed a bond on 04.04.2019. Thereafter, the petitioner is said to have involved in a criminal case and therefore

a case was registered in Crime No.87 of 2020 on the file of the 2nd respondent and for the alleged offences punishable under Sections 341, 294(b), 323 and 506(ii) of IPC and S.3(1) of TNPPDL Act, he was arrested and has been remanded to judicial custody. While so, based on a report filed by the 2nd respondent police, the 1st respondent has passed an order directing the petitioner to be arrested and detained in prison for the breach of bond until the expiry of the period of bond. Challenging the above, the petitioner has preferred a revision.

4. The learned counsel for the petitioner would contend that the impugned order has been passed without issuing any show cause notice and without conducting any enquiry. Therefore, according to the learned counsel the impugned order has been passed in gross violation of principles of natural justice.

5. The learned counsel for the petitioner would further submit that even though the petitioner had already executed a bond, alleging that the petitioner had violated the bond executed by him to maintain peace, the impugned order has been passed under Section 122(1)(b) of Cr.P.C. which is not sustainable in law. If at all the petitioner had committed any breach of bond, an order ought to have been only after an enquiry preceded by a notice. Therefore, the order impugned in the revision has been passed in violation of principles of natural justice and in total non application of mind.

6. Per contra, the learned Government Advocate would, on instructions, contend that before passing the order impugned in the revision, sufficient opportunity was given to the petitioner and the order was preceded by a show cause notice. Therefore, there is no question of violation of principles of natural justice.

7. The learned Government Advocate would further contend that admittedly after the execution of the bond, the petitioner had committed breach of bond and therefore, the 1st respondent has passed an order for the arrest and detention of the petitioner until the expiry of the period of the bond.

8. I have considered the rival submissions carefully.

9. From a careful perusal of the impugned order, this court is unable to find the details as to the issuance of show cause notice and conducting enquiry before passing the impugned order.

10. In view of the above facts and circumstances of the instant case and following the judgement of this court in B.Sathish @ Sathish Kumar v. State (Crl.R.C.No.137 of 2018 dated 13.02.2019) this court is inclined to suspend the order of the 1st respondent until further orders.

In the result, The order of the 1st respondent impugned in the revision petition is suspended and the petitioner is directed to be released on bail on his executing an own bond for a sum of RS.10,000/- to the satisfaction of the Superintendent, Central

Prison, Coimbatore, if his detention is not required in any other cases. The petitioner shall not indulge in any of the criminal activities on his release on bail and in case any violation is found, it is always open to the respondents to approach this court for cancellation of bail. The petitioner is at liberty to produce a Web-Copy of this order to the Superintendent of Prison concerned where the petitioner is now detained for the execution of this order. This petition is disposed of accordingly.

-sd/-
15/05/2020

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 FIRST CLASS EXECUTIVE MAGISTRATE CUM,
REVENUE DIVISIONAL OFFICER,
UDUMALPET, TIRUPPUR DISTRICT.

2 MR.OMPRAKASH,
THE INSPECTOR OF POLICE,
UDUMALPET POLICE STATION,
TIRUPPUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE. सत्यमेव जयते

C.C. to M/S.S.SARAVANAN Advocate on payment of necessary charges

WEB COPY

Order
in
CRL MP.3945/2020

in
CRL.RC.488/2020

Date :15/05/2020

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CS 14/12/2020