

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 10813 of 2020

Mr.A.Vinoth @ Vinothkumar ... Petitioner/Accused

Vs.

1. The Sub-Divisional Magistrate
and Revenue Divisional Officer,
Chengalpattu.
2. The State rep. by
Inspector of Police,
Guduvancheri Police Station,
(M.C. No.A1/144/2019
U/s.122(1)(a) Cr.P.C.) ... Respondents/Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 CrI.P.C to set aside the order passed by the Hon'ble Principal Sessions Judge of Kancheepuram District at Chengalpattu in CrI.M.P.No.1704 of 2020 in CrI.R.P. No.1/2020 dated 28.05.2020 and consequently suspend the sentence of the petitioner to undergo imprisonment for 310 days from 03.12.2019 to 21.10.2020 in MC.No.A1/144/2019 dated 13.12.2019 passed by the Sub-Divisional Magistrate and Revenue Divisional Officer, Chengalpattu/the first respondent herein in MC No.A1/144/2019 dated 13.12.2019 and enlarge the petitioner on bail.

For Petitioner :Mr. M.Ravikumar

For Respondent :Mr.S.Karthikeyan,
Additional Public Prosecutor
O R D E R

This criminal original petition has been filed praying to set aside the order passed by the Principal Sessions Judge of Kancheepuram District at Kancheepuram District at Chengalpattu in CrI.M.P. No.1704 of 2020 in CrI.R.P. No.1/2020, dated 28.05.2020 and consequently suspend the sentence of the petitioner to undergo imprisonment for 310 days from 03.12.2019 to 21.10.2020 passed by the 1st respondent in MC. No.A1/144/2019, daed 13.12.2019 and enlarge the petitioner on bail.

2. It is averred in the petition that the 1st respondent has convicted the accused under Section 122(1)(a) of CrI.P.C. to detain him in person until the expiry of the period of bond i.e. from 03.12.2019 to 21.10.2020. According to the averments in the petition, the period in which the accused was in detention, if any, has to be set off under Section 428 CrI.P.C. from the sentence period. On perusal of records, it is seen that originally, the petitioner was ordered to furnish security for his good behaviour for the time of one year (365 days) from 21.10.2019 to 21.10.2020 by executing a bond with one surety for a sum of Rs.50,000/- under Section 110 CrI.P.C. During that period, a case was registered by the 2nd respondent in crime No.904 of 2019 for an offence under Sections 294(b), 323, 341, 307, 506(ii) of I.P.C. and 3 of TNPPDL Act on 03.12.2019. Hence, the 1st respondent has cancelled the bond executed by the petitioner under Section 110 of CrI.P.C. and committed the petitioner into prison under Section 122(1)(a) CrI.P.C.. to sentence the remaining period from 03.12.2019 to 21.10.2020. Against which, the petitioner has preferred a criminal revision petition in CrI.R.P. No.1 of 2020 and also preferred a petition for suspension of sentence in CrI.M.P. No.1704 of 2020 and the same was dismissed on 28.05.2020. Now, challenging the same, the petitioner has filed this petition and also prays to suspend the sentence.

3. Heard Mr.M.Ravikumar, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent.

4. Having regard the fact that there are arguable points involved in the appeal and further the petitioner was on bail through out the trial, considering the period of incarceration already suffered by the petitioner and the revision is not likely to be taken up for final hearing in the near future, this Court is inclined to suspend the sentence imposed on the petitioner by the trial court.

5. Accordingly, the sentence of imprisonment imposed by the trial court alone is suspended and the petitioner is directed to be enlarged on bail on the following conditions.

(i) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison.

(ii) thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 06.08.2020, failing which the order passed by this Court shall stand dismissed.

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned

Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iv) the petitioner shall report before the said Court at 10.30 a.m. on the first working day of every English Calender month, until further orders.

(v) the trial court is directed to dispose the trial in Criminal Revision Petition in accordance with law as early as possible.

Sd/-

Assistant Registrar(CO MDU)

//True copy//

Sub Assistant Registrar

rpp

To

- 1.The Principal Sessions Judge,
Kancheepuram District at Chengalpattu.
2. The Sub-Divisional Magistrate
and Revenue Divisional Officer,
Chengalpattu.
3. Inspector of Police,
Guduvancheri Police Station,
Chengalpattu District.
- 4.The Public Prosecutor,
High Court, Madras.

CRL.O.P. No. 10813 of 2020

NMI (CO)
GMY (10/09/2020)

WEB COPY