

BAIL SLIP

The Petitioner/Accused namely Arun @ Lay, S/o.Ashokan, was released on bail vide order dated 14.06.2021 in Crl.MP.No.6157/2021 in Crl.RC.No. 369/2021 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.369 of 2021

Arun ... Petitioner /Accused
Vs.

1.The Executive Magistrate and
Deputy Commissioner of Police,
Adyar, Chennai - 20.

2.The Inspector of Police,
J-11, Kannagi Near Police Station,
Greater Chennai. Respondents

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order passed in M.P.No.07 of 2021, dated 30.04.2021 in Na.Ka.No.09/SE.NADU & KA.DHU.AA/ADYAR/2021 and set-aside the same and release the petitioner Arun @ Lay, S/o.Ashokan aged 23 years who is confined in Central Prison, Puzhal, Chennai.

For Petitioner : Mr.C.V.Kumar

For Respondent : Mr.S.Sugendran
Government Advocate (Criminal Side)

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O R D E R

This Criminal Revision Case has been filed to set aside the order passed by the first respondent vide proceedings in M.P.No.07 of 2021, dated 30.04.2021 in Na.Ka.No.09/SE.NADU & KA.DHU.AA/ADYAR/2021

2. It is the case of the second respondent that the

petitioner executed a bond on 22.02.2021 for keeping good behaviour for a period of one year, under Section 110 of Cr.P.C.. Thereafter, the petitioner involved in other case in Crime No.194 of 2021, for the offence under Sections 341, 294 (b), 353, 336, 506(ii) r/w 160 of IPC. Since the petitioner had indulged in the other offences immediately to the execution of bond, the first respondent passed the detention order on 30.04.2021, detaining the petitioner for a period till the expiry of the bond period, by invoking Section 122 (1)(b) of Cr.P.C. Challenging the same, the accused has filed this Revision.

3. When the matter came up for hearing on 14.06.2021, this Court suspended the period of sentence, and in pursuance thereof, the petitioner/accused was released on bail on executing his own bond for a sum of Rs.10,000/- before the first respondent.

4. The learned counsel for the petitioner would submit that without following the procedure and without affording any opportunity to the petitioner, the first respondent on his own invoked Section 110 of Cr.P.C. and passed the impugned order.

5. Per contra, the learned Government Advocate (Criminal Side) would submit that sufficient opportunity was given to the petitioner before passing the order, however, the same was not utilized by the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondents and perused the materials available on record.

7. Admittedly, the petitioner executed a bond for good behaviour under Section 110 of Cr.P.C. on 22.02.2021. During the pendency of the said bail bond, the petitioner was involved in other case, viz., Crime No.194 of 2021 was registered for the offence under Sections 341, 294(b), 353, 336, 506(ii) r/w 160 of IPC, and hence, the petitioner was arrested and remanded to judicial custody on 20.04.2021. When the petitioner was in judicial custody, the second respondent police initiated action against the petitioner under Section 122(1)(b) Cr.P.C and after due enquiry, the first respondent on 30.04.2021 passed the final order and directed the petitioner to undergo imprisonment for the remaining period as per the bond.

8. On a careful perusal of the records, it is seen that legal assistance has not been provided to the petitioner/accused, which is one of the rights of the accused. The first respondent before proceeding with the case, he should have ensured that the petitioner engaged a counsel or he is

willing to engage a counsel. The accused, who is in custody, has to be provided with legal assistance by engaging a counsel on his own. If the petitioner is not in a position to engage a counsel on his own, it is the bounden duty of the Court/respondent police to provide legal assistance through Legal Services Authority. In this case, the first respondent ought to have offered adequate time to the petitioner to engage a counsel and to defend his case or should have engaged a counsel through Legal Services Authority. Admittedly, on the date of examination of the witnesses, the accused was in custody and he was produced before the first respondent on Prisoner's Transit Warrant. Therefore, the first respondent should have provided legal assistance to the petitioner through the legal services authority to defend his case.

9. Now, admittedly, the detention order, detaining the petitioner for a period of 309 days in prison was suspended by this Court dated 14.06.2021 and it is represented by the learned counsel for the petitioner, without affording any opportunity to the petitioner, the first respondent on his own invoked Section 110 of Cr.P.C, and passed the impugned order dated 30.04.2021. According to the learned Government Advocate (Criminal Side), sufficient opportunity was given to the petitioner before passing the order, however, the same was not utilized by the petitioner.

10. In view of above submissions, the petitioner is directed to appear before the first respondent on 20.07.2021, and put-forth his submissions before the first respondent. On such appearance, the first respondent is directed to provide opportunity to the petitioner, including legal assistance, and dispose the matter, on merits and in accordance with law, within a period of six weeks therefrom. The petitioner is directed to cooperate for the enquiry.

11. Accordingly, this Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Alandur.

2.The Executive Magistrate and
Deputy Commissioner of Police,
Adyar, Chennai - 20.

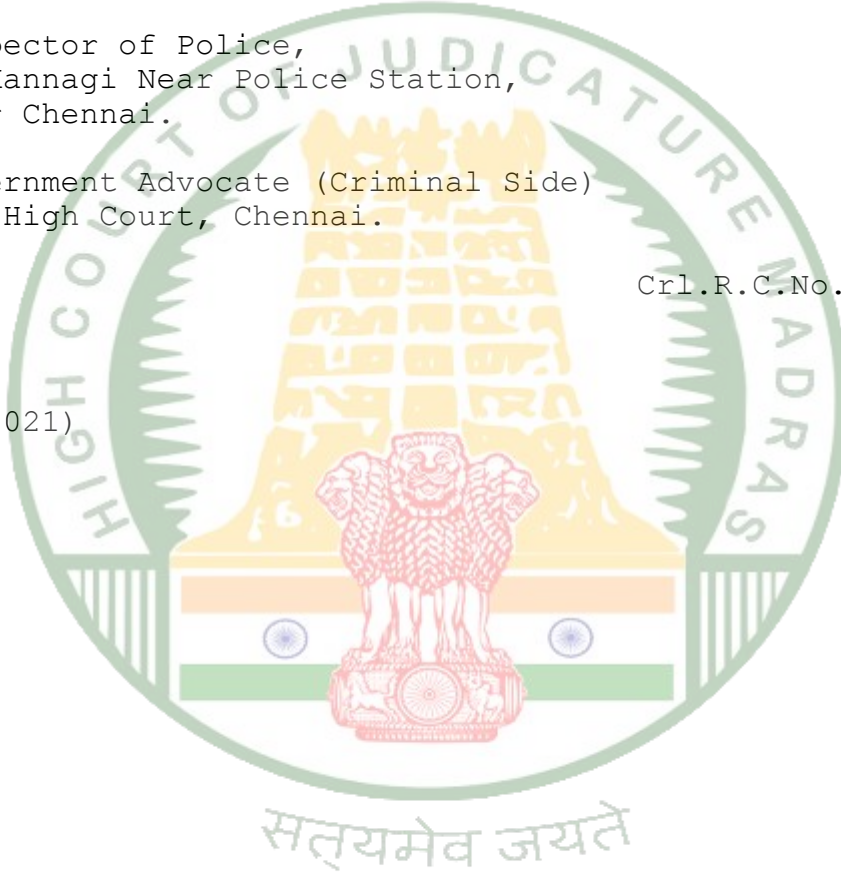
3.The Superintendent,
Central Prison,
Puzhal, Chennai.

4.The Inspector of Police,
J-11, Kannagi Near Police Station,
Greater Chennai.

5.The Government Advocate (Criminal Side)
Madras High Court, Chennai.

Cr1.R.C.No.369 of 2021

SRA (CO)
GN(13/07/2021)



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