



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Thirteenth day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION Nos.12792 & 12793 of 2021

IN CRL RC.940 of 2021

1 EASURAJA [ACCUSED/APPELLANTS/PETITIONERS]
2 DINESHKUMAR
3 IYAPPAN

Vs

THE STATE REP BY ITS [COMPLAINANT/RESPONDENT]
THE INSPECTOR OF POLICE,
RAILWAY PROTECTION FORCE POLICE STATION,
MAYILADUTHURAI
CRIME NO.4/2011

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) suspend the sentence imposed in the Additional District and Sessions Judge, Mayiladuthurai in C.A.No.40 of 2018 judgment dated 11/03/2021 confirming the conviction and Sentence passed by the Judicial Magistrate No.I, Mayiladuthurai in C.C.No.244 of 2011 by judgment dated 16/05/2018 and consequently release the petitioner on bail and thus render justice.[IN CRL.MP.NO.12792/2021]

(ii) exempt to surrender before the concern court order dated 11/03/2021 in C.A.No.40 of 2018 on the file of the Additional District and Sessions Judge, Mayiladuthurai by confirming the conviction and sentence passed by the Judicial Magistrate NO.I, Mayiladuthurai in C.C.No.244 of 2011 order dated 16/05/2018 and thus render justice.[IN CRL.MP.NO.12793/2021]



Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.R.SHIVAKUMAR, Advocate for M/S.K.M.VIJAYAN ASSOCIATES, Advocate for the petitioners and of M/S.S.SUGENDRAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

These Criminal Miscellaneous Petitions have been filed by the Petitioners/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment dated 16.05.2018 passed in C.C.No.244 of 2011 by the learned Judicial Magistrate No.1, Mayiladuthurai, and confirmed by the the judgment dated 11.03.2021 made in Crl.A.No.40 of 2018 by the learned Additional and District Sessions Judge, Mayiladuthurai and to exempt the Petitioners/ Accused, from surrendering before the Trial Court pending disposal of the Criminal Revision Case.

2. In and by the judgment of the trial court, the Petitioners/ accused was convicted for the offence under Section 3(a) of the Railway Property (Unlawful Possession) Act 1966 and sentenced to undergo six months Simple Imprisonment and to pay a fine of Rs.500/- each and in default to undergo one month simple imprisonment and the same was confirmed by the Appellate Court and against which, the present revision has been filed.

3. Learned counsel for the petitioners would submit that the Officer, who is alleged to have recorded the confession from the accused has not been examined in this case. Further, the certificate has been obtained even before the date of inspection. He would further submit that the courts below failed to take into consideration these aspects. According to the learned counsel for the Petitioner/accused, there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the Petitioners/ accused have got a fair chance of succeeding in the Criminal Revision Case and hence, the sentence imposed against the Petitioners/Accused may be suspended and the Petitioners may be exempted from surrendering before the Trial Court.

4. Heard the learned counsel for the petitioners and perused the materials on record.

5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions :-



i. The petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.1, Mayiladuthurai.

ii. The petitioners shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

6. The Criminal Miscellaneous Petitions are ordered accordingly.

-sd/-
13/12/2021

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 ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MAYILADUTHURAI.

2 THE JUDICIAL MAGISTRATE,
NO.I, MAYILADUTHURAI,
NAGAPATTINAM DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
RAILWAY PROTECTION FORCE POLICE STATION,
MAYILADUTHURAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



6 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

WEB COPY

C.C. to M/S.K.M.VIJAYAN ASSOCIATES Advocate on payment of
necessary charges

Order

in

CRL MP.Nos.12792 & 12793/2021

in

CRL RC.940/2021

Date :13/12/2021

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

RW 13/12/2021