



BAIL SLIP

The Petitioner/Accused viz, Mohan @ Kuttiya Mohan was directed to be released on bail as per order of this Court dated 19.09.2019 in Crl.M.P.No.12378 of 2019 in Crl.R.C.No.833 of 2019 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.833 of 2019

Mohan @ Kuttiya Mohan
S/o, Kalaimani

... Petitioner/Accused

Versus

1. State Rep by
The Inspector of Police,
M-5, Ennore Police Station,
Chennai -57.
2. The Executive Magistrate,
Deputy Commissioner of Police,
Madhavaram,
Chennai.

... Respondents/Complainats

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of the Code of Criminal Procedure, to call for the records pertaining to the order of the Executive Magistrate/Deputy Commissioner of Police, Madhavaram, passed in M.P.No.13 of 2019 in RC.No.249/Sec.Pro/DCP MVM/2019 in M5 Ennore P.S.SI.No.57/2019 U/s.107 Cr.P.C dated 06.08.2019 and set aside the same.

For Petitioner : No appearance

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



ORDER

WEB COPY This Criminal Revision Petition has been filed to call for the records pertaining to the order of the Executive Magistrate/Deputy Commissioner of Police, Madhavaram, passed in M.P.No.13 of 2019 in RC.No.249/Sec.Pro/DCP MVM/2019 in MS Ennore P.S.SI.No.57/2019 U/s.107 Cr.P.C dated 06.08.2019 and set aside the same.

2. The petitioner had executed a bond dated 05.05.2019 to maintain peace for a period of one year along with two sureties in connection with Cr.No.396 of 2009 for the offences under sections 147, 148, 448, 342, 307 IPC. Whiles, during the period of bond, the petitioner had involved in another case in Cr.No.355 of 2019 on the file of the first respondent for the offences under sections 147, 148, 341, 294(b), 336, 427, 392 r/w297, 506(ii) IPC. Therefore he produced before the Executive Magistrate cum Deputy Commissioner of Police, Madhavaram and the learned Executive Magistrate had conducted an enquiry and passed the order dated 06.08.2019 in M.P.No.13 of 2019 in ROC.No.249/Sec.Pro/DCP MVM/2019. Challenging the said order, the petitioner has come before this Court.

3. Today when the matter is taken up for hearing, there is no representation for the petitioner.

4. When the matter came up for hearing on 28.07.2021, the learned Government Advocate sought time to get instructions and to file status report. He would submit that the petitioner was originally involved in a case in Cr.No.396 of 2009. Subsequently, a bond was executed. During the bond period, the petitioner was involved in the ground case. He also submitted that the petitioner is a habitual offender and he was involved in five previous cases. Further, the Executive Magistrate initiated proceedings under section 122(1)(b)Crpc and after recording their evidence and on being satisfied with the same, he canceled the bond and passed the final order to undergo imprisonment for the remaining period of 298 days. Therefore there is no merit in the Criminal Revision Petition and the same is liable to be dismissed.

5. While the petitioner was in custody, the petitioner was produced on P.T warrant. The Executive Magistrate has to give an opportunity to the petitioner to offer his explanation. Whereas the record shows that while the petitioner was in custody, proceedings under section 122(b)Crpc were initiated and that he was produced on P.T warrant and witnesses were examined. However, records shows that he was not given opportunity to



engage a counsel and in case, the petitioner is not engaging a counsel, the Executive Magistrate ought to provide a legal aid counsel through the Legal Services Authority and in this case, he has not provided that facility. Therefore the order is liable to be set aside. Accordingly, the case is remitted back to the Executive Magistrate, and after giving opportunity to the petitioner, the Executive Magistrate shall dispose of the matter in accordance with law. Since this Court vide order dated 19.09.2019 granted suspense of sentence in Crl.M.P.No.12378 of 2019, the bail bond executed by the petitioner, if any, shall stand cancelled.

6. With the above directions, the Criminal Revision Petition is disposed of.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Thiruvottriyur.
2. The Inspector of Police,
M-5, Ennore Police Station,
Chennai -57.
3. The Executive Magistrate,
Deputy Commissioner of Police,
Madhavaram, Chennai.
4. The Superintendent,
Central Prison,
Puzhal, Chennai 66.
5. The Public Prosecutor,
High Court, Madras.

CRL.R.C.No.833 of 2019

RR(CO)
SU(16/09/2021)