



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twenty Fourth day of February Two Thousand and
Twenty One

WEB COPY

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.1584 of 2021
in
CRL RC(MD)No.139 of 2021

SRINIVASAN

... REVISION PETITIONER/
APPELLANT/ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SOUTHERN RAILWAY,
THIRUVARUR POLICE STATION,
THIRUVARUR DISTRICT.
CRIME NO.1/2010.

... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of imprisonment imposed by the Principal Sessions Judge, Thanjavur in C.A.No.11 of 2016 dated 18/07/2016 in C.C.No.138 of 2010 on the file of the Learned Judicial Magistrate No.1, Thanjavur dated 11/02/2016 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

PRAYER IN CRL RC(MD)No.139 of 2021:

Pleased to call for the record and set aside order passed by Principal Sessions Judge, Thanjavur in C.A.No.11 of 2016 dated 18.07.2016 in C.C.No.138 of 2010 on the file of the learned Judicial Magistrate No.I, Thanjavur, dated 11.02.2016 and restore the Criminal Appeal No.11 of 2016 to file and to dispose of the same on merits in the manner known to law.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.S.DURAIPANDIAN, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondent, the court made the following order:-

It is seen that the petitioner was convicted by the learned Judicial Magistrate No.I, Thanjavur in C.C.No.138 of 2010 for the offence under Section 3 (a) of the Railway Property



(Unlawful Possession) Act, 1966 and was sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo further period of one month simple imprisonment, by judgment, dated 11.02.2016.

2.As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.11 of 2019 before the learned Principal District and Sessions Judge, Thanjavur. The first appellate Court has dismissed the appeal for non payment of batta. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.No.139 of 2021. Along with the revision, he has filed the present application for suspension of sentence pending disposal of the said revision.

3.On the side of the petitioner, it is stated that there are arguable points for consideration in the revision petition. Appeal filed by the petitioner was dismissed for non payment of batta. The petitioner is in custody for the past two months and only four months period is pending to complete the sentence. It is further stated that the petitioner is an 67 years old person and therefore, the petitioner prayed the sentence to be suspended.

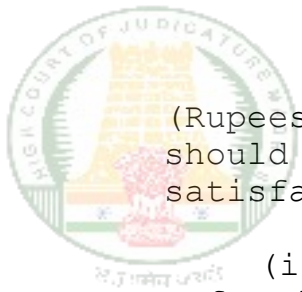
4.On the side of the respondent, it is stated that the offence against the petitioner is under Section 3 (a) of the Railway Property (Unlawful Possession) Act, 1966 and the petitioner is in custody from 28.12.2020 onwards.

5.The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, Crl.M.P.(MD)No.1584 of 2021 is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i) the petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the Judicial Magistrate No.I, Thanjavur within a period of four weeks from the date of receipt of copy of this order;

(ii) On deposit of the aforesaid amount, the petitioner is directed to execute a bond for a sum of Rs.10,000/-



(Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate No.I, Thanjavur.

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity cards to ensure their identity.

(iv) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision or until further orders.

sd/-
24/02/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1.THE PRINCIPAL DISRTRICT AND SESSIONS JUDGE,
THANJAVUR.
 - 2.THE JUDICIAL MAGISTRATE No.I, THANJAVUR.
 - 3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
 - 4.THE INSPECTOR OF POLICE
SOUTHERN RAILWAY,
THIRUVARUR POLICE STATION, THIRUVARUR DISTRICT.
 - 5.THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY DISTRICT.
 - 6.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to Mr.K.S.DURAI PANDIAN Advocate SR.No.1399

ORDER
IN
CRL MP(MD) No.1584 of 2021
in
CRL RC(MD)No.139 of 2021
Date :24/02/2021

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TK/VR/SAR.1/25.02.2021/3P/8C

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