



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

Tuesday, the Thirtieth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2545 of 2021
in
Crl.R.C. (MD)No.247 of 2021

ARUN @ ARUNPANDI

... PETITIONER/ PETITIONER

Vs

1 THE EXECUTIVE MAGISTRATE CUM
DEPUTY COMMISSIONER OF POLICE(LAW AND ORDER),
MADURAI CITY

2 THE INSPECTOR OF POLICE
V2, AVANIYAPURAM POLICE STATION,
MADURAI CITY.

... RESPONDENTS/ RESPONDENTS

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 passed by the 1st respondent in M.C.No.1848/Ni.Se.Na and Kaa.Thu.Aa/Ma.Maa/2020 dated 23/02/2021 pending disposal of the above Criminal Revision.

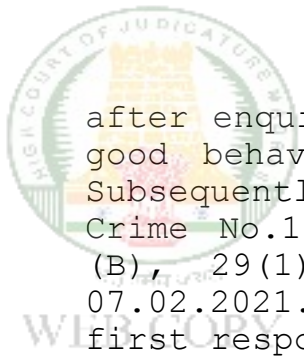
Prayer in Crl.R.C. (MD)No.247 of 2021:

To call for the records pertaining to order passed by the 1st respondent in M.C.No.1848/Ni.Se.Na and Ka.Thu.Aa/Ma.Maa/2020 dated 23/02/2021 and set aside the same as illegal.

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.S.VASANTHA YUGESH, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, While admitting the Criminal Revision, the court made the following order:-

This petition has been filed to suspend the sentence passed by the first respondent in M.C.No.1848/Ni.Se.Na & Kaa.Thu.Aa/Ma.Maa/2020, dated 23.02.2021, pending the disposal of the Criminal Revision.

2.The second respondent filed a report before the first respondent, in L.I.R.No.218 of 2020, under Section 109 Cr.P.C., on 21.10.2020. The first respondent called upon the petitioner and



after enquiry, the petitioner executed a bond to maintain peace and good behavior for a period of one year i.e. from 06.11.2020. Subsequently, the petitioner involved in another criminal case in Crime No.11 of 2020, under Sections 8(c) r/w. Section 20(b) (ii) (B), 29(1) of NDPS Act, and the petitioner was arrested on 07.02.2021. Again, the second respondent filed a report before the first respondent. Based on the report of the second respondent, the first respondent initiated proceedings under Section 122 (1)(b) Cr.P.C and passed the impugned order. Against the impugned order, the petitioner has preferred a revision case in Crl.R.C.(MD)No.247 of 2021. Along with the revision, he has filed the suspension of sentence, till the disposal of the said revision.

3. On the side of the petitioner, it is stated that the petitioner is not having any previous case and he is not a history sheeter. A false case has been filed against the petitioner. The petitioner is in custody for the past 1 ½ months. The first respondent is not having the jurisdiction to pass the impugned order. The petitioner is only 20 years old and prayed the sentence to be suspended.

4. On the side of the respondents, it is stated that the offence against the petitioner is under the NDPS Act. The impugned order was passed by the first respondent, after following all the formalities. Sufficient opportunity was given to the petitioner. The petitioner has cross examined the witnesses himself. The question regarding the jurisdiction of the first respondent is pending before the Larger Bench, sofar, the authority of the first respondent is not set aside by any Court or by any Government Order and prayed the petition to be dismissed.

5. It is seen that the petitioner was given copies of the documents, on 15.02.2021. On 16.02.2021, four witnesses were examined by the first respondent. At the request of the petitioner, adjournment was given for cross examination. Again, the petitioner was produced on 19.02.2021 and he cross examined one witness and prayed for adjournment for cross examination of two other witnesses and on 23.02.2021, the petitioner cross examined two witnesses on that date. After recording his satisfaction, the first respondent has passed the impugned order. But, considering the fact that the petitioner is only 20 years old and he is in custody for the past 1 ½ months and he is having no previous case, this Court is inclined to grant suspension of sentence alone. Accordingly, this petition is allowed, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail till the disposal of the Revision Case, on his executing 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 Executive Magistrate cum Deputy Commissioner of Police, Madurai City, and on further condition that:



(i) 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 any valid identity proof to ensure their identity.

sd/-
30/03/2021

WEB COPY

/ TRUE COPY /

/ /2021

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

TO

- 1 THE EXECUTIVE MAGISTRATE CUM
DEPUTY COMMISSIONER OF POLICE (LAW AND ORDER),
MADURAI CITY
- 2 THE INSPECTOR OF POLICE
V2, AVANIYAPURAM POLICE STATION,
MADURAI CITY.
- 3 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.2545 of 2021 in
Crl.R.C.(MD)No.247 of 2021
Date :30/03/2021

LS
MS/PN/SAR-4/01.04.2021/3P.5C