



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

Friday, the Ninth day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.2821 of 2021
in
CRL.RC.(MD)No.287 of 2021

GOPI @ GOPINATH DURGA

... PETITIONER/PETITIONER

Vs

1 THE SUB DIVISIONAL EXECUTIVE MAGISTRATE
CUM THE REVENUE DIVISIONAL OFFICER,
PALANI.

2 STATE REP.BY
THE INSPECTOR OF POLICE,
PALANI TOWN POLICE STATION,
PALANI, DINDIGUL DISTRICT.

... RESPONDENTS/RESPONDENTS

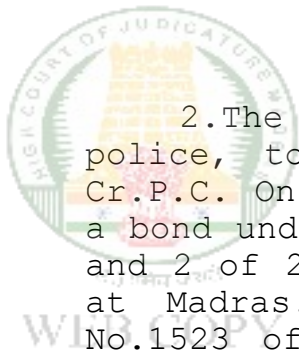
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the 1st respondent herein in M.C.No.38/2018/A7, dated 20/01/2021 and release the petitioner on bail pending disposal of the said Criminal Revision Case.

Prayer in CRL.RC.(MD)No.287 of 2021:

To call for the records of the 1st Respondent in M.C.38/2018/A7, dated 20/01/2021 and set aside the same and release the petitioner.

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.KARUNANITHI.M., Advocate for the petitioner and of Mr.R.SRINIVASAN, Government Advocate (Crl. Side) on behalf of the Respondents, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the first respondent herein M.C.No.38/2018/A7 dated 20.01.2021, till the disposal of the revision.



2.The case against the petitioner is that the respondent police, took action against the petitioner under Section 110 of Cr.P.C. On 25.10.2018, after oral enquiry, the petitioner executed a bond under Section 110 of Cr.P.C., with two sureties in M.P.Nos.1 and 2 of 2015 in Crl.OP.No.17684 of 2015 before the Principal Seat at Madras. Subsequently, on 05.10.2020, another case in Crime No.1523 of 2020 under Sections 147, 365, 323 and 364(A) IPC was registered against the petitioner by the respondent Police. On the report of the respondent Police, the Sub Divisional Executive Magistrate cum The Revenue Divisional Officer, Palani, initiated proceedings under Section 122(1)(b) of Cr.P.C., and passed the impugned order. Subsequently, on 08.01.2021, the petitioner and the other two accused were arrested and remanded to judicial custody. Against the impugned order, the petitioner approached this Court by way of revision.

3.On the side of the petitioner, it is stated that since defective notice has been issued by the first respondent, it is liable to be quashed and the petitioner is in custody for the past 3 months, he prayed that the impugned order to be set aside.

4.On the side of the prosecution, it is stated that the copies were furnished to the petitioner. Sufficient opportunity was given to the petitioner. The petitioner cross examined some of the witness and that the impugned order was passed only after due and proper enquiry and after following due process of law. The impugned order was passed by the first respondent herein and prayed the petition to be dismissed.

5.A perusal of the records reveals that the petitioner is in custody for the past 3 months.

6.Considering the period of incarceration and considering the fact that one of the previous case filed by a person having previous motive, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the revision petition and the petitioner is ordered to be released on bail on the following conditions:

(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sub Divisional Executive Magistrate cum The Revenue Divisional Officer, Palani ;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain
<https://hcservices.courts.gov.in/hcservices/> valid identity proof to ensure their identity ;



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

sd/-
09/04/2021

WEB COPY

/ TRUE COPY /

/ /2021

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE SUB DIVISIONAL EXECUTIVE MAGISTRATE
CUM THE REVENUE DIVISIONAL OFFICER,
PALANI.
- 2 THE INSPECTOR OF POLICE,
PALANI TOWN POLICE STATION,
PALANI, DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.KARUNANITHI.M. Advocate SR.No.3115

ORDER
IN
CRL MP(MD) No.2821 of 2021
in
CRL.RC.(MD) No.287 of 2021
Date : 09/04/2021

DSS
JM/PN/SAR II/17.04.2021/3P/6C