



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

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

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3419 of 2021
in
Cr1.RC(MD)No.296 of 2021

M.KAJA ISMAIL @ OTTU KAJA

... PETITIONER/ PETITIONER/
ACCUSED

Vs

1 THE ADMINISTRATIVE EXECUTIVE
MAGISTRATE AND THE DEPUTY COMMISSIONER OF POLICE
LAW AND ORDER, TIURNELVELI CITY.

... RESPONDENT/
RESPONDENT/ RESPONDENT

2 STATE REP.BY
THE INSPECTOR OF POLICE
(LAW AND ORDER),
MELAPALAYAM POLICE STATION,
TIRUNELVELI CITY.

... RESPONDENT/ RESPONDENT/
COMPLAINANT

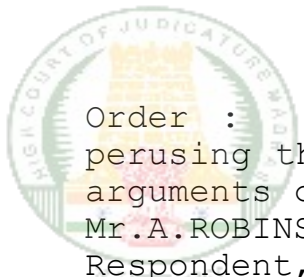
3 THE SUPERINTENDENT OF PRISON
PALAYAMKOTTAI CENTRAL PRISON,
PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

... RESPONDENT/ RESPONDENT/
RESPONDENT

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 in E.M.C No.169/Sec /Pre/ DC L and O /Tin-c/2020 dated 30.09.2020 order passed under Section 122 (1) (b) r/w. 117 Cr. P. C dated 05.03.2021 by the 1st Respondent and release the Petitioner on bail till the disposal of the main revision petition.

PRAYER IN Cr1.RC(MD)No.296 of 2021:

To call for the entire records relating to the order under section 122(1)(b)r/w.117 of Criminal Procedure code dated 05.03.2021 by his proceedings in E.M.C No.169/Sec /Pre/ DC L and O /Tin-c/2020 dated 30.09.2020 order passed the 1st respondent and set aside the same as illegal and allow the above Criminal Revision Petition.



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.I.SABEER MOHAMED, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Criminal Side) on behalf of the Respondent, the court made the following order:-

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the 1st respondent in EMC No.169/Sec/Pre/DC.L&O/Tin-e/2020, dated 30.09.2020 and release the petitioner on bail till the disposal of the main criminal revision.

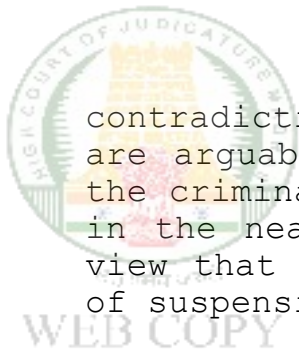
2.It is seen from the records that the 2nd respondent registered a case against the petitioner in LIR No.15 of 2020 under section 107 of Criminal Procedure Code and a report was initiated by the 2nd respondent and the same was forwarded to the 1st respondent for further action and after perusal of the records, the 1st respondent issued summon under section 111 Cr.P.C and directed the petitioner to execute a bond with sureties under section 110 of the Criminal Procedure Code, for a period of one year for keeping peace and maintaining good behaviour. But unfortunately, after executing the bond, again the petitioner involved in a criminal offence and on the complaint, a case was registered by the 2nd respondent police, in Crime No.120 of 2020 for the offence under sections 448, 294(b), 307, 427 and 506(i) IPC and he was arrested by the 2nd respondent police on 20.02.2021 and remanded to the judicial custody. Subsequently, after careful consideration of the documents and statement of the petitioner, the 1st respondent has passed the impugned order. Aggrieved by the impugned order passed by the 1st respondent, the petitioner is before this court.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he was falsely implicated in this case and the 1st respondent did not provide reasonable opportunity to defend the case before passing the impugned order. It is further submitted that the petitioner is in jail since 20.02.2021 and prays for suspension of the impugned order passed by the 1st respondent.

4.Per contra, it is submitted by the learned Government Advocate (Criminal side) appearing for the respondents that the 1st respondent has rightly passed order against the petitioner and there are enough materials available on record against the petitioner and prays for dismissal of this petition.

5.This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

6.The learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain



contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this petition is allowed and the substantive sentence of imprisonment passed by the 1st respondent is suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on condition that he 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 1st respondent Administrative Executive Magistrate and Deputy Commissioner of Police, (Law and Order), Tirunelveli City and on further condition that the petitioner shall appear before the 1st respondent daily twice I.e., at 10.30 am and 5.00 pm pending revision.

sd/-
29/04/2021

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/ /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 ADMINISTRATIVE EXECUTIVE
MAGISTRATE AND THE DEPUTY COMMISSIONER OF POLICE
LAW AND ORDER, TIURNELVELI CITY.
- 2 THE INSPECTOR OF POLICE
(LAW AND ORDER),
MELAPALAYAM POLICE STATION,
TIRUNELVELI CITY.
- 3 THE SUPERINTENDENT OF PRISON
PALAYAMKOTTAI CENTRAL PRISON,
PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.



4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

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ORDER

IN

CRL MP (MD) No.3419 of 2021

in

CrI.RC (MD) No.296 of 2021

Date :29/04/2021

er

MS/VR/SAR-4/30.04.2021/4P.5C