



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

Monday, the Fourth day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7814 of 2020

IN

CRL RC(MD) No.726 of 2020

SEKAR @ LOADMAN SEKAR

... PETITIONER/PETITIONER

Vs

1 THE EXECUTIVE MAGISTRATE NO.II/
THE TAHSILDAR,
AGASTEESWARAM TALUK,
NAGERCOIL, KANYAKUMARI DISTRICT.

2 THE INSPECTOR OF POLICE,
VADASERI POLICE STATION,
VADASERI, KANYAKUMARI DISTRICT.

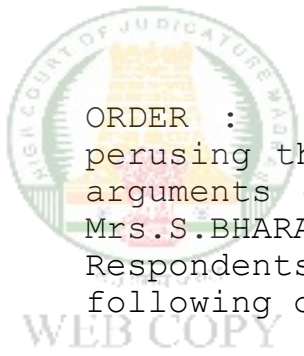
3 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON,
PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

... 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 Passed by the 1st Respondent the Executive Magistrate No.II/ Tahsildar, Agasteeswaram Taluk, Nagercoil, Kanyakumari District in Na. Ka. C2/6205/2020 dated 07.10.2020 and release the detenu by name sekar @ Loadman Sekar, aged about 44 years, S/o.Rasaiah, now confined at the Central Prison, Palayamkottai pending disposal of this Criminal Revision Petition.

Prayer in CRL RC(MD) No.726 of 2020:

To call for the records pertaining to the order dated 07.10.2020 passed by the 1st respondent/ the Executive Magistrate No.II/ Tahsildar, Agasteeswaram Taluk, Nagercoil, Kanyakumari District in Na.Ka.C2/6205/2020 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.PRAGALATHAN.N, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate (Crl. Side) on behalf of the Respondents, while admitting the CRL RC., the court made the following order:-

This petition has been filed to suspend the sentence passed by the first respondent in Na.Ka.C2/6205/2020, dated 07.10.2020, pending the disposal of the Criminal Revision.

2.The petitioner has has executed a bond under Section 110 Cr.P.C., to keep peace for a period of one year, before the first respondent on 17.09.2020. Subsequently, he involved in an offence in Crime No.550 of 2020, under Section 8(c) of NDPS Act. On the request of the second respondent, the first respondent initiated proceedings and passed the impugned order. Against the impugned order, the petitioner has preferred a Revision in Crl.R.C.(MD)No.726 of 2020. Along with the Revision, he has filed an application in Crl.M.P.(MD)No.7814 of 2020, for suspension of sentence pending disposal of the said revision.

3. On the side of the revision petitioner, it is stated that the respondents has not furnished documents regarding the proceedings. No witness was examined. No enquiry was conducted. The petitioner was not provided with the legal assistance and prayed the sentence to be suspended.

4. On the side of the respondents, it is stated that show cause notice was issued to the petitioner on 05.10.2020 and the same was served on 06.10.2020. The petitioner was present before the first respondent and gave a statement on 07.10.2020. The petitioner involved in 11 previous cases, out of which, 7 cases are of similar in nature. Only after examining all the documents and after giving opportunity to the petitioner, the impugned order was passed by the first respondent.

5. A perusal of the impugned order reveals that show cause notice was served to the petitioner on 06.10.2020 and on 07.10.2020, the petitioner was present. No witness was ever examined by the first respondent. No opportunity was given to the petitioner to contest the proceedings. Hence, 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 learned Executive Magistrate No.II / Tahsildar, Agasteeswaram Taluk, Kanniyakumari District and on further condition



(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.

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sd/-
04/01/2021

/ TRUE COPY /

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

TO

- 1 THE EXECUTIVE MAGISTRATE NO.II/
THE TAHSILDAR,
AGASTEESWARAM TALUK,
NAGERCOIL, KANYAKUMARI DISTRICT.
 - 2 THE INSPECTOR OF POLICE,
VADASERI POLICE STATION,
VADASERI, KANYAKUMARI DISTRICT.
 - 3 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON,
PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.N.PRAGALATHAN, Advocate SR.No. 64

ORDER
IN
CRL MP(MD) No.7814 of 2020
IN
CRL RC(MD) No.726 of 2020
Date :04/01/2021

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JM/VR/SAR II/05.01.2021/3P/6C