



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

Crl.M.P.No.2321 of 2022

in

Criminal Revision Case No.223 of 2022

Raji @ Vivekanandan

... Petitioner

..Vs..

1.The Executive Magistrate cum
Deputy Commissioner of Police,
Washermanpet District,
Washermanpet,
Chennai.

2.The Inspector of Police [L&O]
H-8 Tiruvottriyur Police Station,
Tiruvattiriyur
Chennai - 600 019.

... Respondent

PRAYER: Criminal Miscellaneous petition filed under Section 397 r/w 439 of Cr.P.C (1) to suspend the sentence passed in the Impugned order dated 30.12.2021 in M.P.No.80/2021 in LIR. NO.615/SEC.PRO/DCP WPT/2021 on the file of the first respondent and enlarge the petitioner on bail, pending the disposal of the main criminal Revision Petition.

For Petitioner : Mr.A.Thirumaran

For Respondents : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 30.12.2021 in M.P.No.80/2021 in LIR. NO.615/SEC.PRO/DCP WPT/2021 on the file of the first respondent and prays to enlarge the petitioner on bail.



2. The following cases were found to be registered against the petitioner in Crime No.937/2021 for the offence punishable under Sections 4(i)(a) TNP Act (2) Crime No.2067/21 for offence under Section 4(1-A) TNP Act and further the respondent police registered a case in Crime No.117/2021 against the petitioner and on requisition for enquiry under section 110 Cr.P.C., petitioner was asked to execute a bond for keeping good behaviour and during the bond period, he was alleged to have committed an other offence and hence, the police registered a case in Crime No.3216 of 2021 for offence under Section 8(c) read with 20(b)(ii)(B) NDPS Act and therefore he was taken into custody and he was produced before the Executive Magistrate cum Deputy Commissioner of Police, Washermanpet District, Chennai, wherein the said authority on enquiry found that the petitioner had committed breach of bond and cancelled the bond and further directed him to undergo imprisonment for the remaining bond period. Challenging the said order, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that the very execution of bond is suspicious because the stamp paper in which bond was given is dated 15.11.2021 whereas the bond was given only on 16.11.2021. It is puzzling to common sense how a person might anticipate that he might have to execute a bond on a following date and purchase stamp paper a day in advance.

4. The learned Government Advocate (Crl.side) would submit that subsequently during the pendency of bond executed by the petitioner he was also involved in other offence and thereby breached the bond and therefore he was taken into custody. Subsequently notice was given and after examining the witnesses and after enquiry, the impugned order came to be passed.

5. Heard both sides. Perused the materials available on record.

6. According to the learned counsel for the petitioner/accused, the issue is referred to Bench. There are arguable points available in the Criminal Revision case, and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision case and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision case, the reliefs of suspension of sentence and bail are granted on the following conditions:



(a) The petitioner/accused is ordered to be released on bail, on he executing 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 learned Judicial Magistrate at Thiruvottriyur.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) 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 criminal Revision case and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

8. This Criminal Miscellaneous Petition stands ordered accordingly.

-sd/-
24/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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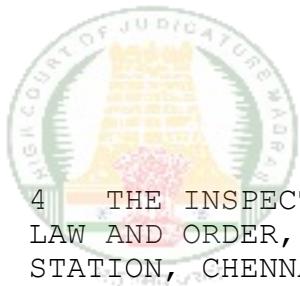
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
THIRUVOTTRIYUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION].

3 THE EXECUTIVE MAGISTRATE CUM
DEPUTY COMMISSIONER OF POLICE, WASHERMENPET,
CHENNAI



4 THE INSPECTOR OF POLICE
LAW AND ORDER, H-8, THIRUVOTTRIYUR POLICE
STATION, CHENNAI 600019

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

COPY TO:

1 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S A.THIRUMARAN Advocate on payment of necessary
charges

Order
in
CRL MP.2321/2022
in
CRL RC.223/2021

Date :24/02/2022

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JPA 28/02/2022