



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.7413 of 2022

in

Crl.R.C.No.713 of 2022

D.Stalin

... Petitioner

Versus

1. Executive Magistrate-cum-Revenue Divisional Officer,
O/o. Revenue Divisional Officer,
Thiruvarur.
2. The Inspector of Police,
Thiruvarur Town Police Station,
Thiruvarur District.

... Respondents

Prayer: Criminal Miscellaneous Petition filed under Sections 397 and 439 of the Code of Criminal Procedure to suspend the execution of the sentence against the petitioner/accused in கு.ல.எண்.164/2021/அ5, dated 19.04.2022 passed by the 1st respondent and enlarge the petitioner on bail.

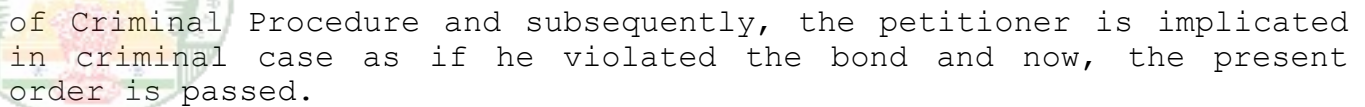
For Petitioner : Mr.P.Muthamizhselvakumar

For Respondents : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/Accused, seeking suspension of the execution of the sentence against the petitioner/accused in கு.ல.எண்.164/2021/அ5, dated 19.04.2022 passed by the 1st respondent and enlarge the petitioner on bail.

2. Mr.P.Muthamizhselvakumar, learned Counsel appearing for the petitioner would submit that in a routine manner, with a view to detain the petitioner, bond is required under Section 110 of the Code



4. Mr.S.Vinoth Kumar, the learned Government Advocate (Crl. Side), would submit that the petitioner had furnished a bond to be of good behaviour and in violation of the bond, he had involved in the offence and the respondent, after affording sufficient opportunity, finding violation of the bond, passed the order of detention.

6. This Court in "Devi Versus The Executive Magistrate-cum-Deputy Commissioner of Police, St.Thomas Mount District" in Crl.R.C.No.78 of 2020, by order dated 25.09.2020, had deferred with the findings given in Crl.R.C.No.982 of 2018, dated 24.11.2018 and held in paragraph No.20 as follows:-

43. Further, as this Court is not in agreement with the view propounded by another learned single judge of this Court in Balamurugan (supra), the following question is framed with a direction to the Registry to place the same before the Hon'ble Chief Justice with a request to constitute a Bench of appropriate strength for an authoritative pronouncement:

<https://hcservices.ecourts.gov.in/hcservices/>



7. Now, both the learned Single Judges have referred the issues to be placed before the Hon'ble The Chief Justice for constituting a larger bench with regard to applicability of Section 122(1)(b) Cr.P.C., the power exercised by police officers can it be said to be power exercised as Executive Magistrate under the Code of Criminal Procedure and for other connected issues.

8. In view of the above and it is learnt that it would take some time for the above issues to be decided, this Court is inclined to suspend the sentence imposed on the petitioner with the following conditions:-

(i) The petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) before the Superintendent, Central Prison, Trichy.

(ii) The petitioner shall appear before the second respondent Police everyday at 5.30 p.m., until further orders.

9. Hence, the Criminal Miscellaneous Petition is ordered to the extent of granting Suspension of Sentence. The Superintendent, Central Prison, Trichy is directed to set the petitioner at liberty, if his further detention is no longer required in connection with any other case or proceedings.

10. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-

15/06/2022

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

TRUE COPY

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

TO

1 THE EXECUTIVE MAGISTRATE CUM REVENUE DIVISIONAL OFFICER
O/O. REVENUE DIVISIONAL OFFICER,
THIRUVARUR.

2 THE INSPECTOR OF POLICE,
THIRUVARUR TOWN POLICE STATION,
THIRUVARUR DISTRICT.



3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.P.MUTHAMIZHSELVAKUMAR Advocate on payment of
necessary charges SR.No.9088

Order
in
CRL MP.7413/2022
in
CRL.RC.NO.713/2022
Date :15/06/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

CSK 16/06/2022