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Crl.M.P.No.19893 of 2022

Crl.R.C.No.1688 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.19893 of 2022

in

Crl.R.C.No.1688 of 2022

Sundarapandiyan

... petitioner

/vs/

1. The Executive Magistrate/
cum Deputy Commissioner of Police,
(Salem South), Salem City Police,
Salem-15.

2. The State, represented by
the Inspector of Police,
B5, Kichipalayam Police Station,
Kichipalayam, Salem City

.. Respondents

Prayer : Criminal Miscellaneous Petition filed under section 397(1) of Cr.P.C., to suspend the conviction and sentence imposed in the impugned proceedings of the first respondent in M.C.No.70/EM & DCP(s)/SLM/C/2022 dated 17.11.2022, pending disposal of the Criminal Revision Petition.

For petitioner

... Mr.M.Santhanaraman

For Respondents

... Mr.V. Meganathan, GA (crl.side)

ORDER



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This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the first respondent, vide proceedings dated 17.11.2022, pending disposal of the Criminal Revision Petition.

2. The learned counsel for the petitioner submitted that the petitioner was made to execute a bond under Section 110 of Cr.P.C. under threat by the respondent police on 09.02.2022. He further submitted that, though the petitioner is not involved in any crime as alleged by the respondent police, the first respondent has passed the impugned order dated 17.11.2022, believing the version of the respondent police and has sentenced the petitioner to undergo imprisonment for two months and 22 days, being the remaining period of bond and the above order is under challenge.

3. He further submitted that, now, the petitioner is in prison for violating the bond executed under Section 110 Cr.P.C., as directed by the first respondent and hence, the petitioner may be enlarged on bail till the disposal of this revision .

4. When the matter was taken up, the learned Govt. Advocate (crl.side)



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appearing for the respondents objected to release the petitioner on bail.

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5. I have considered the submissions made on both side and perused the materials available on record.

6. The Executive Magistrate/cum Deputy Commissioner of Police (Salem South), Salem City Police, Salem, on the request made by the 2nd respondent police, examined the witnesses and after perusing the records, sentenced the petitioner as stated above and the same is under challenge.

7. At this juncture, it is relevant to note that the cases involving the similar issue of this case, is pending before the Honourable Chief Justice of this Court for constituting a larger Bench with regard to applicability of section 122(1)(b) Cr.P.C.

8. In such circumstances, since the issues to be decided would take some time, this Court is inclined to grant bail to the petitioner till the disposal of the criminal revision on the following conditions.

9. Accordingly, the petitioner is ordered to be released on bail on the



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following conditions:-

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(i) The petitioner shall execute own bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) before the Superintendent, Central Prison, Coimbatore.

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

10. The Superintendent, Central Prison, Coimbatore is directed to set the petitioner at liberty, if his further detention is no longer required in connection with any other case or proceedings.

11. The Criminal Miscellaneous Petition is ordered accordingly.

23.12.2022

mst

To

1. The Executive Magistrate/
cum Deputy Commissioner of Police (Salem South)
Salem City Police, Salem.

2. Inspector of Police, B5, Kichipalayam Police Station,
Kichipalayam, Salem City.



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3. The Superintendent, Central Prison, Coimbatore.

4. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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