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Crl.M.P.No.20071 of 2022 in Crl.RC.No.1712 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2022

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.M.P.No.20071 of 2022

in

Crl.RC.No.1712 of 2022

Manikandan

... Petitioner

/versus/

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

2.The Inspector of Police (L & O),
E-1, Mylapore Police Station,
Chennai – 04.

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w.439 of Cr.P.C., to suspend the sentence of imprisonment imposed by the Executive Magistrate, Mylapore, Chennai, in M.P.No.50 of 2022 in Na.Ka.No.223/Executive Magistrate/P.S.Mylapore/2022 in E-1, Mylapore Police Station u/s 107 Cr.P.C., register Sl.No.77 of 2022 dated 22.11.2022 and enlarge him on bail.

For petitioner

... Mr.T.Balaji

For Respondent

... Mr.L.Baskaran,
Government Advocate (Crl. Side)



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by the The Executive Magistrate cum Deputy Commissioner of Police, Mylapore, Chennai, vide proceedings dated 22.11.2022, 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 107 Cr.P.C., under threat by the respondent police on 13.06.2022. 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 22.11.2022, believing the version of the respondent police and has sentenced the petitioner to undergo imprisonment for 209 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 107 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 Government Advocate



(Crl. Side) appearing for the respondent objected to release the petitioner on bail.

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, Mylapore, Chennai, on the request made by the second 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 Hon'ble 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 following conditions;-

- (i) The petitioner shall execute own bond for a sum of Rs.25,000/-(Rupees Twenty Five thousand only) before the Superintendent, Central Prison, Puzhal – I, Chennai.
- (ii) The petitioner shall report before the respondent police everyday at 5.30 p.m., until further orders.

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

11. The criminal miscellaneous petition is ordered accordingly.

28.12.2022

ata/lbm

Note : Issue Order copy on 30.12.2022.



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To

- 1.The Executive Magistrate cum
Deputy Commissioner of Police,
Mylapore, Chennai.
- 2.The Inspector of Police (L & O),
E-1, Mylapore Police Station,
Chennai – 04.
4. The Superintendent,
Central Prison, Puzhal I, Chennai.
- 5.The Public Prosecutor
High Court, Madras

A.A.NAKKIRAN.J,



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