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CrI.M.P No.2503 of 2023 in CrI.R.C.No.302 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.M.P.No.2503 of 2023

in

CrI.R.C No.302 of 2023

Jayaseelan,

... Petitioner

-VS-

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

2. The State by,
Inspector of Police,
T-4, Maduravoyal Police Station,
Chennai.

... Respondents

Prayer: Criminal Miscellaneous Petition filed under Sections 397 (1) & 439 of Criminal Procedure Code, to suspend the sentence and enlarge him on bail in order passed by the Executive Magistrate cum Deputy Commissioner of Police, Anna Nagar District, Chennai, dated 01.02.2023 in M.P.No.6 of 2023 in LIR.No.637/Sec.Pro/DCP AN/2022 in T4-Maduravoyal Police Station SI.No.144 of 2022 under Section 110 of Cr.P.C., pending disposal of the above Criminal Revision Petition.



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For Petitioner : Mr.S.Sasikumar
For Respondents : Mr.V.Meganathan,
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the first respondent, *vide* order dated 01.02.2023 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. for maintaining good behaviour on 12.12.2022. He further submitted that, a case in Crime No.54 of 2023 was registered against the petitioner for the offences punishable under Sections 294(b), 392, 506 (ii) of I.P.C. The learned counsel also submitted that, without giving any opportunity to the petitioner, the first respondent has passed the impugned order against principle of Natural justice and sentenced him to undergo imprisonment for the remaining period of bond and the above order is under challenge.



3. The learned counsel for the petitioner 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) appearing for the respondents 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 The Executive Magistrate cum Deputy Commissioner of Police, Anna Nagar District, Chennai, on the request made by the 2nd respondent police, passed the impugned order and sentenced the petitioner to undergo imprisonment for the remaining period of bond 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



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constituting a larger Bench with regard to applicability of Section 122(1)(b)

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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 a own bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) before the Superintendent, Central Prison, Puzhal, Chennai.

(ii)The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Superintendent, Cental Prison, Puzhal, Chennai may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

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



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10. The Superintendent, Central Prison, Puzhal, Chennai, 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.

21.02.2023

bsm

To

1. The Executive Magistrate cum Deputy Commissioner of Police, Anna Nagar District, Chennai.
2. The Superintendent, Central Prison, Puzhal, Chennai.
3. The Inspector of Police, T-4, Maduravoyal Police Station, Chennai.
4. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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