



WEB COPY



Crl.MP No.19912 of 2022 in Crl.R.C.No.1693 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.19912 of 2022
in Crl.R.C.No.1693 of 2022

Raji @ Rajasekar

... Petitioner

Vs.

1.The Executive Magistrate cum
Deputy Commissioner,
St. Thomas Mount District.

2.The State, represented by
the Inspector of Police (Law & Order)
S-9, Palavanthangal Police Station,
Chennai.

...

Respondents

Prayer: Criminal Miscellaneous Petition filed under Section 397(1) Read With Section 439 of Criminal Procedure Code to suspend the sentence imposed on the petitioner herein by the first respondent in M.P.No.29 of 2022 in Na.Ka.No.426/Sec.Pro/DCP – St. Thomas Mount Dist/2022 in S-9, Palavanthangal Police Station, S.I.No.80/Sec.Pro/2022 u/s.109 of Cr.P.C.,



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dated 30.11.2022 and enlarge the petitioner on bail, pending disposal of the Criminal Revision Petition.

For Petitioner : Mr.M. Illiyas

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 30.11.2022 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 109 of Cr.P.C. for maintaining good behaviour on 05.10.2022, thereafter, he has not involved in any offence . The learned counsel also submitted that, without appreciating the law and facts, the first respondent has passed the impugned order, only on the request made by the second respondent police and sentenced the petitioner to undergo imprisonment for the remaining period of bond and the



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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 109 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.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 Executive Magistrate cum Deputy Commissioner, St. Thomas Mount, after examining the witnesses and perusing the documents, has passed the impugned order and sentenced the petitioner to undergo imprisonment for the remaining period of bond and the same is under



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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 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 shall appear before the



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second respondent Police everyday at 5.30 p.m., until further orders.

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.

02.01.2023

msr

To

1. The Executive Magistrate cum
Deputy Commissioner,
St. Thomas Mount District
2. The Superintendent, Central Prison, Puzhal, Chennai.
3. The Inspector of Police (Law & Order)
S-9, Palavanthangal Police Station,
Chennai.
4. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

msr

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02.01.2023