



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twenty Fourth day of April Two Thousand and Twenty
Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6579 of 2023
in
CRL RC(MD) No.446 of 2023

SENTHIL

... Petitioner / Appellant /
Sole Accused

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
THANJAVUR EAST POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.200/2020)

... Respondent / Respondent /
Complainant

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed by the learned Judicial Magistrate No.I, Thanjavur in CC No.100/2021 vide its order dated 17.06.2022 which was subsequently modified and enhanced by the learned Principal Sessions Court, Thanjavur in C.A.No.44 of 2022 vide its judgment dated 29.03.2023 pending the disposal of the main criminal revision petition.

Prayer in CRL RC(MD). 446/ 2023 :

To call for the entire records pertaining to the Judgment dated 29.03.2023 passed by the Learned Principal Sessions Court, Thanjavur in CA No.44/2022 enhancing the conviction of the Judgment dated 17.06.2022 passed by the learned Judicial Magistrate No.I, Thanjavur in C.C.No.100 of 2021 and set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.DHILIPAN PANDIAN R.L., Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate (Crl. side) on behalf of the Respondent, while admitting the Criminal Revision Petition, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.I,



Thanjavur, in C.C.No.100 of 2021, dated 17.06.2022, which was subsequently modified and enhanced by the learned Principal Sessions Judge, Thanjavur, in Crl.A.No.44 of 2022, dated 29.03.2023.

2. The case of the prosecution is that the petitioner/sole accused was found in possession of 305 numbers of 180 ML Honey Day Brandy Liquor and 79 numbers of 180 ML Honey Bee Brandy Liquor without any permission or licence with an intention to sell the same for higher price and on that basis, FIR came to be registered in Crime No.200 of 2020. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in C.C.No.100 of 2021 on the file of the Judicial Magistrate No.I, Thanjavur.

3. The learned Magistrate, after hearing the arguments on both the sides, has passed the judgment dated 17.06.2022 convicting the petitioner for the offence under Section 4(1)(aa) of TNP Act and sentenced him to undergo simple imprisonment for 10 days and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for two weeks. Challenging the above said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.44 of 2022 on the file of the Principal Sessions Court, Thanjavur. The learned Principal Sessions Judge, by setting aside the sentence and fine imposed on the petitioner by the trial Court, has directed the petitioner to pay a sum of Rs.50,000/- to the State Government as compensation under Section 357(3) Cr.P.C.

4. Aggrieved by the above said judgment, the petitioner has preferred a revision in Crl.R.C.(MD)No.796 of 2022 before this Court and this Court, by holding that the impugned direction to pay compensation as illegal, set aside the judgment of the appellate Court and remitted the matter back to the appellate Court on 16.09.2022. Thereafter, the learned Principal Sessions Judge, after hearing the parties afresh, by confirming the conviction and sentence of fine imposed on the petitioner for the offence under Section 4(1)(aa) of TNP Act, has modified the sentence of simple imprisonment of 10 days imposed on the petitioner for the same offence and enhanced the period to one month, vide judgment dated 29.03.2023. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Revision along with the above application for suspension of sentence.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the respondent and also perused the materials available on record.

6. The learned counsel appearing for the petitioner would submit that the petitioner has already paid the fine amount.

7. Considering the facts and circumstances of the case and the nature of the enhancement of sentence passed by the appellate



Court, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.I, Thanjavur;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
24/04/2023

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/05/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

To

1.The Principal Sessions Judge,
Thanjavur.

2.The Judicial Magistrate No.I,
Thanjavur.

3.Do through the Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.

4.The Inspector of Police,
Thanjavur East Police Station,
Thanjavur District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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+1 CC to M/s.DHILIPAN PANDIAN R.L., Advocate (SR-6671[I] dā
26/04/2023)

ORDER

IN

CRL MP (MD) No.6579 of 2023
in

CRL RC (MD) No.446 of 2023

Date :24/04/2023

ED/VS/SAR-3 (12/05/2023) 4P 7C