



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

Friday, the Twenty Third day of June Two Thousand and Twenty Three

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8966 of 2023
IN
CRL.RC (MD) No.608 of 2023

SULTAN ALAUDDIN

... PETITIONER/REVISION PETITIONER

Vs

1 THE SECOND CLASS TALUK EXECUTIVE
MAGISTRATE CUM THASILDAR,
VEDASENDUR TALUK,
DINDIGUL DISTRICT.

... 1st RESPONDENT/1st RESPONDENT

2 THE INSPECTOR OF POLICE
VEDASENDUR POLICE STATION,
VEDASENDUR,
DINDIGUL DISTRICT.

... 2nd RESPONDENT/2nd RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the dentention order passed by 1st respondent herein in MC.No.13/2023/A1 dated 28.03.2023 and release the petitioner on bail on such terms and conditions as this Hon'ble Court may deem fit and proper in the circumstances of the case, pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC (MD) . 608/ 2023 :

To call for the entire records pertaining to the order passed by 1st respondent herein in M.C.No.13/2023/A1 dated 28.03.2023 and set aside the same and to release the revision petitioner confined in the District Prison,Dindigul,Dindigul District.

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.SARVAGAN PRABHU S, Advocate for the petitioner and of Mr.A.ALBERT JAMES, Government Advocate on behalf of the Respondents, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the first respondent, in M.C.No.13/2023/A1, dated 28.03.2023, till the disposal of this Criminal Revision.



2. The first respondent, on the basis of the report of the second respondent, has initiated proceedings under Section 110 Cr.P.C., in LIR.No.06 of 2023 and conducted enquiry and ordered the petitioner to execute a bond under Section 110 Cr.P.C. on 06.03.2023 and on that basis, the petitioner has been bound over and released, after executing a bond, for maintaining good behaviour for a period of one year viz., from 06.03.2023 to 05.03.2024. Subsequently, a criminal case was registered against the petitioner in Crime No.75 of 2023, for the offences punishable under Sections 294(b), 323, 324, 387 and 506(1) IPC and the petitioner was arrested on 22.03.2023 and remanded to judicial custody on the same day. The second respondent, by alleging that the petitioner violated/breached the bond executed by him, has sent a communication, requesting the first respondent to initiate necessary action under Section 122(1) (b) Cr.P.C. Based on the said report of the second respondent, the first respondent issued a show cause notice to the petitioner and directed them to produce the petitioner on 28.03.2023. The first respondent after enquiry, has passed the impugned order, dated 28.03.2023, cancelling the security bond executed by the petitioner and ordered to detain him in prison until the expiry of the period of bond viz., 05.03.2024. Aggrieved by the said order, the petitioner has preferred the present revision along with the present miscellaneous petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the petitioner has no way connected with the alleged occurrence in Crime No.28 of 2023, that the impugned order has been passed without following the procedure laid down by this Court, that the petitioner's right to get legal assistance was denied, that the learned Magistrate has no power to invoke Section 122(1)(b) Cr.P.C for the violation of the bond executed under Section 110 Cr.P.C and that the personal liberty of the petitioner was seriously affected by the impugned order passed by the first respondent.

4. The learned counsel appearing for the petitioner would further submit that the Division Bench of this Court has pronounced a judgment dated 13.03.2023 in Crl.R.C.(MD)No.137 of 2018 Batch, wherein, the Division Bench of this Court has specifically observed that an Executive Magistrate cannot authorize imprisonment under Section 122(1)(b) for violation of a bond under Section 107 Cr.P.C. and further observed that a person who has violated the bond executed before the Executive Magistrate under the said provision will have to be challenged or prosecuted before the Judicial Magistrate for enquiry and punishment under Section 122(1)(b) Cr.P.C.

5. Considering the above, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.



6. 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 Second Class Taluk Executive Magistrate, Vendasendur, Dindigul District;

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

(iii) The petitioner shall appear before the first respondent as and when required.

sd/-

23/06/2023

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23/06/2023

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

CSM

TO

1 THE SECOND CLASS TALUK EXECUTIVE
MAGISTRATE CUM THASILDAR,
VEDASENDUR TALUK,
DINDIGUL DISTRICT.

2 THE INSPECTOR OF POLICE
VEDASENDUR POLICE STATION,
VEDASENDUR, DINDIGUL DISTRICT.

3 THE OFFICER INCHARGE,
DISTRICT PRISON, DINDIGUL, DINDIGUL DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.SARVAGAN PRABHU S Advocate SR.No.30451 **(F)**
Dt.23/06/2023

ORDER IN

CRL MP(MD) No.8966 of 2023
IN

CRL.RC(MD) No.608 of 2023
Date :23/06/2023

SA/VR/SAR. /23.06.2023/3P/6C

<https://www.mhc.tn.gov.in/judis>