



CRL.M.P(MD).No.16068 of 2023

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

Friday, the Seventeenth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).No.16068 of 2023
in
CRL.R.C(MD).No.1266 of 2023

VAIRAMUTHU

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY,
THE PUBLIC PROSECUTOR
VIRUDHUNAGAR DISTRICT,,
REP DRUG INSPECTOR,
VIRUDHUNAGAR REGION.

... RESPONDENT/RESPONDENT

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 Chief Judicial Magistrate, Virudhunagar District at Srivilliputtur in CC No.6/2008 by his Judgment dt.13.08.2010 which was confirmed by the Additional District and Sessions Judge, Srivilliputtur, Virudhunagar District in C.A.No.92 of 2010 by Judgment dated 29.09.2023 and enlarge the petitioner on bail pending the disposal of the present criminal revision petition.

Prayer in CRL RC(MD). 1266/ 2023 :

To call for the entire regards relating to the Judgment of the Additional District and Sessions Judge, Srivilliputtur, Virudhunagar District passed in CA No.92/2010 dt.29.09.2023 confirming the conviction and sentence passed by the Chief Judicial Magistrate, Virudhunagar District @ Srivilliputtur in C.C.No.6 of 2008 dated



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13.08.2010 and set aside the same by allowing the present criminal revision petition and acquit the petitioner/accused.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.A.BALAJI, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Chief Judicial Magistrate, Virudhunagar District at Srivilliputtur, in C.C.No.6 of 2008, dated 13.08.2010, which was confirmed in Criminal Appeal No.92 of 2010, dated 29.09.2023 by the learned Additional District and Sessions Judge, Srivilliputtur, Virudhunagar District, enlarge the petitioner on bail pending disposal of the Criminal Revision Case.

2. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 27(b)(ii) Tamilnadu Drugs and Cosmetics Act and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo 3 months simple imprisonment and for the offence under Section 28 of Tamilnadu Drugs and Cosmetics Act imposed a fine of



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Rs.25,000/- (Rupees Twenty Five Thousand) in default to undergo 3 months simple imprisonment in C.C.No.6 of 2008, on the file of the Chief Judicial Magistrate, Virudhunagar District at Srivilliputtur.

3. The learned Additional District and Sessions Judge, Srivilliputtur, Virudhunagar District, confirmed the conviction and sentence and dismissed the Criminal Appeal No.92 of 2010, dated 29.09.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.

4. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he opposed to grant suspension of sentence.

6. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.



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7. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that 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 learned Judicial Magistrate No.I, Srivilliputtur.

(ii) The sureties shall affix their photographs and Left Thumb



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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.

sd/-
17/11/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SRIVILLIPUTTUR, VIRUDHUNAGAR DISTRICT
- 2.THE JUDICIAL MAGISTRATE NO.I, SRIVILLIPUTTUR.
- 3.THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR
- 4.THE PUBLIC PROSECUTOR
VIRUDHUNAGAR DISTRICT,,
REP DRUG INSPECTOR,
VIRUDHUNAGAR REGION.



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

+1 CC to M/s.A.BALAJI, Advocate (SR-16638[I] dated 21/11/2023)

ORDER
IN
CRL.M.P(MD).No.16068 of 2023
in
CRL.R.C(MD).No.1266 of 2023
Date :17/11/2023

RK/DD (28/11/2023) 6P / 7C

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