



CRL MP(MD) No.8287 of 2024

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

Friday, the Sixteenth day of August Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL MP(MD) No.8287 of 2024
in
CRL RC(MD) No.775 of 2024

P.MUTHUSAMY

... PETITIONER/ACCUSED

Vs

1 THE SUB DIVISIONAL MAGISTRATE/THE REVENUE DIVISIONAL OFFICER,
O/O.THE REVENUE DIVISIONAL OFFICER,
MUSURI REVENUE DIVISION,
TRICHY DISTRICT

2 THE INSPECTOR OF POLICE
THURAIYUR PEW POLICE STATION,
TRICHY DISTRICT

3 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON,
TRICHY,
TRICHY DISTRICT

... RESPONDENTS/RESPONDENTS

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence in detention order passed by the 1st respondent in ந.க.அ2/2726/2024 dated 29.06.2024 and release the petitioner/P.Muthusamy, S/o.Pothiyan, aged 50 now confining at Sub Jail, Thuraiyur, Trichy District pending disposal of this Criminal Revision.

Prayer in CRL RC(MD). 775/ 2024 :

To call for the records relating to the impugned order passed by the 1st respondent in his proceedings in ந.க.அ2/2726/2024 dated 29.06.2024 and to set aside the same and allow the above Criminal Revision

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



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Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.C.SURESH KANNAN, Advocate for the petitioner and of MR.K.SANJAI GANDHI, Government Advocate (Crl.Side) 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 Na.Ka.Aa2/2726/2024, dated 29.06.2024, 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. and conducted enquiry and ordered the petitioner to execute a bond under Section 110 Cr.P.C. on 01.02.2024 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 01.02.2024 to 31.01.2025. Subsequently, a criminal case was registered against the petitioner in Crime No.394 of 2024, for the offences punishable under Sections 4(1)(aaa), 4(1)(g) r/w 4(1-A) TNP Act and the petitioner was arrested on 19.06.2024 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



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29.06.2024. The first respondent after enquiry, has passed the impugned order, dated 29.06.2024, cancelling the security bond executed by the petitioner and ordered to detain him in prison until the expiry of the period of bond viz., 31.01.2025. 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 in no way connected with the alleged occurrence in Crime No.394 of 2024, 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



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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 and bail 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 learned Judicial Magistrate, Thuraiyur, Trichy 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/-
16/08/2024

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16/08/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE JUDICIAL MAGISTRATE, THURAIYUR, TRICHY DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3 THE SUB DIVISIONAL MAGISTRATE/THE REVENUE DIVISIONAL OFFICER,
O/O.THE REVENUE DIVISIONAL OFFICER,
MUSURI REVENUE DIVISION, TRICHY DISTRICT.

4 THE INSPECTOR OF POLICE, THURAIYUR PEW POLICE STATION,
TRICHY DISTRICT

5 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON, TRICHY, TRICHY DISTRICT.

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

+1 CC to M/s.C.SURESH KANNAN, Advocate (SR-10017[I] dated 16/08/2024)

ORDER

IN

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in

CRL RC(MD) No.775 of 2024

Date :16/08/2024

RS//SAR-(16.08.2024) 5P 8C

Madurai Bench of Madras High Court is issuing
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