

Crl.M.P.No.13082 of 2016
in Crl.A.No.803 of 2016

S.BASKARAN, J.

The petitioner, who is the sole accused in Spl.C.C.No.22 of 2014 on the file of the Special Judge (Special Court for trial of cases under the Prevention of Corruption Act,) Salem, seeks suspension of sentence imposed upon him by judgement dated 18.11.2016 and enlarge him on bail, pending main appeal.

2. After trial, petitioner was convicted and sentenced as under:-

(i) Under Section 7 of the Prevention of Corruption Act, 1988, sentenced to undergo 1 year rigorous imprisonment and to pay a fine of Rs.5000/- in default to undergo 6 months simple imprisonment.

(ii) Under Section 13(2) r/w.13(1)(d) of Prevention of Corruption Act, 1988, sentenced to undergo 2 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo 6 months simple imprisonment.

(iii) Both the sentences are ordered to be undergone by the accused concurrently.

3. The learned counsel appearing for the petitioner submitted

that the prosecution witnesses before the trial court did not give any incriminating evidence, implicating the appellant/petitioner with regard to the case of prosecution and as regards the sanction order, which is the important piece of material evidence, the authority concerned has not applied his mind independently. Thus, there is prima facie case, in favour of the petitioner. He further submitted that the petitioner/appellant has also paid the total fine amount of Rs.15,000/- before the trial court; in the circumstances, he may be granted bail.

4. The learned Additional Public Prosecutor appearing for the State, would submit that on consideration of entire materials on record, the trial court has rightly found the petitioner guilty and convicted him and there is no prima facie case in favour of the petitioner.

5. I have considered the rival submissions, perused the judgment of the trial court and the evidence pointed out by either side.

6. Considering the facts and circumstances of the case, I find that some arguable points are involved in this criminal appeal, which

are required to be examined in detail. Further, the sentence imposed upon the petitioner was suspended till 16.12.2016, by the trial court itself. Accordingly, finding a prima facie case in favour of the petitioner, I am inclined to grant the following relief:-

(a) Appeal bail is granted to the petitioner/appellant.

(b) His sentence of imprisonment alone is suspended on condition that the petitioner executes a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of learned Special Judge (Special Court for trial of cases under the Prevention of Corruption Act), Salem. ;

(c) Petitioner shall report before the said court on the first working day of every month at 10.30 am., until further orders.

07.12.2016

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