

Crl.M.P.No.8617 of 2016**in****Crl.A.No.625 of 2016****R.SUBBIAH, J.**

The petitioner was convicted for the offence under Sections 7 and 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act and sentenced to undergo one year rigorous imprisonment and ordered for payment of compensation of Rs.3,000/-, for the offence under Section 7 of the Prevention of Corruption Act, in default in paying the fine amount, to undergo three months simple imprisonment and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.2000/-, for the offence under Section 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, in default in paying the fine amount, to undergo three months simple imprisonment, by the learned Special Court, Prevention of Corruption Cases, Villupuram, by Judgment dated 29.07.2016 in S.C.No.67 of 2014. Now, the petitioner has come up with the present petition seeking suspension of sentence and enlarge him on bail.

2. Learned counsel appearing for the petitioner would submit that the the Court has failed to appreciate the facts and evidence in proper perspective manner. Further, the allegation that in the presence of PW7, the appellant demanded money, stands disproved. The case of the prosecution that prior to payment of Rs.25,000/- to the 2nd accused, the defacto

complainant contacted the appellant twice over phone is not established. The prosecution did not produce the call records, since the case pleaded by the prosecution was that there was demand prior to the alleged payment of money to the 2nd accused. If the call records are produced, the case of the prosecution would have been totally disproved. Therefore, the finding given by the Court below that the prosecution case is probable, is totally unjustifiable. The other reasoning contained in the judgment of the court below are also unsustainable. The learned counsel appearing for the petitioner would further submit that there are arguable points in this appeal and the petitioner is having a fair chance to succeed in the appeal.

3. Heard the learned Additional Public Prosecutor on the submissions made by the learned counsel for the petitioner.

4. Considering the facts and circumstances of the case and in view of the fact that there are arguable points involved in the appeal as contended by the learned counsel for the petitioner and further, the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner is entitled to the relief of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on his executing 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 the trial Court and on further condition that the petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. pending appeal.

16.08.2016

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