



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

Tuesday, the Twenty Ninth day of March Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) No.2689 of 2016

IN

CRL A(MD) No.101 of 2016

N.RAJAGOPAL

..PETITIONER/APPELLANT

Vs.

THE STATE GOVERNMENT REP.BY
THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
SIVAGANGAI.
CR.NO.1/2010

..RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to graciously suspend the sentence imposed on me by the Special Court for Trial of cases under prevention of Corruption Act, Sivagangai passed in Special Case No.52 of 2014 dated 10.3.2016 and enlarged me on bail pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.S.MUJIBUR RAHMAN, Advocate for the petitioner and of Mr.P.KANDASAMY, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

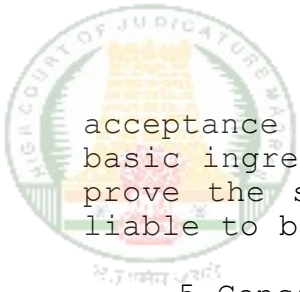
This is a petition filed by the petitioner/Appellant/Accused to suspend the sentence imposed on him in Spl.Case No.52 of 2014 dated 10.03.2016 by the learned Special Court for trial of Cases under the Prevention of Corruption Act, Sivagangai, pending disposal of the criminal appeal. It is stated that the fine amount has been paid by the petitioner/appellant/Accused.

2.It is clearly stated in the affidavit enclosed with the petition that the petitioner has got a fair chance of success in the main appeal and there is no likelihood of taking up of the main appeal for final hearing in the near future, and throughout the trial, the petitioner has got the benefit of bail and now also, the very same benefit may be extended to him.

3.It is further stated that the petitioner has already served as Head Constable at Puzhuthipatti Police station and he has been awarded totally 32 number of awards and the prosecution has not proved that the petitioner has received the alleged illegal gratification, beyond the reasonable doubts. Further, the petitioner has seated in the civil dress without uniform in the verandah of the police station and therefore, the conviction imposed on the petitioner is not sustainable.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Further, it is pointed out on behalf of the petitioner that demand itself has not been proved by the prosecution and subsequent



acceptance is also not proved and the demand and acceptance are the basic ingredients in corruption case, but, the prosecution has failed to prove the same and hence, the conviction imposed on the petitioner is liable to be set aside.

5. Considering the submissions made on behalf of the petitioner/Appellant/ and in view of the various grounds raised in the memorandum of criminal appeal, this Court finds that there are substantial and arguable points in the present case. Further, when the appellate Court finds that due to practical reasons appeal cannot be disposed of expeditiously, the appellate Court must bestow special concern in the matter of suspending the sentence, as prayed for in the present petition, so as to make the appeal right meaningful and effective. Otherwise the very valuable right of appeal would be an exercise in futility by efflux of time.

6. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main appeal alone, the correct and proper finding in the main case can be given.

7. Further, it is seen that various points raised in the grounds of appeal require an indepth/threadbare examination at the time of final hearing of the main appeal and also on going through the various grounds raised in the memorandum of criminal appeal, at this stage, this Court, to prevent aberration of justice, suspends the substantial sentence of imprisonment alone pending disposal of the above criminal appeal with the following conditions/

i) the petitioner/appellant/Accused shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for a likesum to the satisfaction of the learned Special Court for trial of Cases under the Prevention of Corruption Act, Sivagangai;

ii) the petitioner/appellant/Accused shall appear before the said Court on the first working day of every English Calendar month until further orders, failing which the said Court is directed to inform about the details of failure committed by the petitioner in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the petitioner/Appellant/Accused shall furnish his present full details of his residential address along with the copies of the family ration card/Aadhar Card/voter ID card issued by the Election Commission of India and also phone numbers(mobile/landline) if any to the said Court in the form of an affidavit, after serving an advance true copy of the same to the respondent; and

iv) on receipt of the true copy of the said affidavit, the respondent is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to respondent to take appropriate follow up action, in accordance with law.

sd/-

29/03/2016

/ TRUE COPY /

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



1 THE SPECIAL JUDGE FOR TRIAL OF CASES
UNDER PREVENTION OF CORRUPTION ACT,
SIVAGANGAI.

2 THE ADDL.PUBLIC PROSECUTOR,MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

3 THE INSPECTOR OF POLICE, VIGILANCE & ANTI-CORRUPTION, SIVAGANGAI.

+1. C.C. to M/S A.S.MUJIBUR RAHMAN Advocate SR.No.17392

ORDER IN
CRL MP(MD) No.2689 of 2016 IN
CRL A(MD) No.101 of 2016
Date :29/03/2016

PBK/GSV-PM/AR-I 31/03/2016 ::3P-5C::