



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

Monday, the Sixth day of June Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP (MD) No.4208 of 2016
IN
CRL A (MD) No.189 of 2016

S.SIVAKUMAR

... PETITIONER/APPELLANT

Vs

STATE THROUGH

(THE DSP VIGILANCE AND ANTI CORRUPTION,
(V & AC), RAMANATHAPURAM),

FOR THE DSP, V& AC,

TIRUNELVELI.

CRIME NO.1 OF 2006

... RESPONDENT/COMPLAINANT

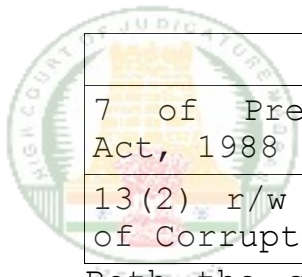
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence of imprisonment imposed against the petitioner/Appellant/Accused in Special Case No.31/2014 dated **(*)13.05.2016** on the file of the Learned Special Judge for Prevention of Corruption Act Cases, Tirunelveli and enlarge the petitioner/Appellant on bail pending disposal of the above 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 M.SARAVANAN, Advocate for the petitioner and of MR.P.KANDASAMY Government Advocate for the Respondent while admitting the Criminal Appeal the court made the following order:-

The sole accused in the Special C.C.No.31 of 2014 on the file of Special Court under Prevention of Corruption Act, Tirunelveli while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

2.The appellant/petitioner is employed as Assistant Executive Engineer, TANGEDCO. He is alleged to have demanded Rs.1,000/- as illegal gratification from P.W.2 to change the tariff. A trap was laid. It became successful. Based on the oral, documentary and scientific evidence adduced, the trial Court found the charges proved.

3.The learned Special Judge convicted and sentenced him as under:
<https://hcservices.ecourts.gov.in/hcservices/>



Section	Punishment
7 of Prevention of Corruption Act, 1988	3 years R.I. plus fine Rs.5,000/- i/d 5 months SI
13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988	3 years R.I. plus fine Rs.5,000/- i/d 5 months SI

Both the sentences were directed to run concurrently. He has paid the fine amount.

3.The learned counsel for the petitioner submitted that the prosecution has failed to prove the charges beyond all reasonable doubts. Demand as well as acceptance were not proved. P.W.2 is not consistent in his chief and cross examination. He has shifted the place of occurrence. He had stated that at the relevant time he had spotted the accused near the Vigilance and Anticorruption Office at Palayamkottai, however the place of occurrence is Puliankudi. As between there is vast distance. The witness examined to speak about his witnessing the trap operation is also not consistent. Prosecution case suffers from several inherent improbabilities.

5.On the other hand, the learned Government Advocate (Criminal side) would submit that based on the clear cut evidence of P.W.2 and other official witnesses the learned Special Judge has rightly convicted and appropriately sentenced the petitioner.

6.I have anxiously considered the rival submissions and perused the impugned judgment and also referred to the relevant evidence. I have also perused the grounds of appeal. I see certain eminently arguable points are involved in this Criminal Appeal. Further, it will take some time for the disposal of this criminal appeal. Further, he was on bail in the trial Court. Further, there is no allegation that he will abscond or flee away from justice. I see prima-facie case in his favour. Thus, I am inclined to grant him appeal bail.

7.Ordered as under:

(1) Appeal bail granted.

(2) His sentence of imprisonment alone is suspended.

(3) There shall be two sureties, they and the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten thousand only) each to the satisfaction of learned Special Judge under Prevention of Corruption Act at Tirunelveli.

(4) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. until further orders.

sd/-

06/06/2016

**(*)Amended as per order of this
Hon'ble High Court made in
Crl.MP.No.4469/2016 vide order
dated 09.06.2016 by P.D.S.J.**

/ TRUE COPY /



sj
TO

1. THE SPECIAL JUDGE,
SPECIAL COURT UNDER PREVENTION OF CORRUPTION ACT,
@ TIRUNELVELI.

2. THE GOVERNMENT ADVOCATE (CRL. SIDE),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

3. (THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTICORRUPTION,
(V & AC), RAMANATHAPURAM),
FOR THE Deputy Superintendent of Police,
VIGILANCE AND ANTICORRUPTION, TIRUNELVELI.

+1. C.C. to M/S M.SARAVANAN Advocate SR.No.29118

GJM/ARK/DV/SAR-I-7.6.16-3P-5C

ORDER
IN
CRL MP (MD) No.4208 of 2016
IN
CRL A (MD) No.189 of 2016
Date : 06/06/2016

PA/GSV-PM/SAR I/09.06.2016/3P/5C (IT)