



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

Monday, the Twentieth day of June Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP (MD) No.4836 of 2016
IN
CRL A (MD) No.218 of 2016

K.MURUGAN

... PETITIONER/APELLANT

Vs

STATE, REPRESENTED BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
MADURAI.

CR.NO.8/2007

... RESPONDENT/RESPONDENT

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 in the judgment dated 23.5.2016 in Special Case No.29 of 2011 on the file of the Learned Special Judge for the Prevention of Corruption Act Cases, Madurai and enlarge the petitioner on bail pending the disposal of the above Criminal Appeal.

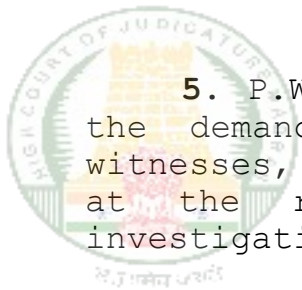
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S M.SARAVANAN, Advocate for the petitioner and of MR.P.KANDASAMY, learned Government Advocate (Crl.Side) takes notice for the Respondent the court made the following order:-

The sole accused in the Special Case No.29 of 2011, on the file of the learned Special Judge under P.C.Act @ Madurai, while challenging his conviction and sentence, seeks appeal bail under Section 389 Cr.P.C.

2. In the said Court, he was found guilty under Sections 7 and 13(1)(d) r/w 13(2) of P.C.Act and was sentenced to 1 year R.I., for each offence and was fined Rs.5,000/- i/d 2 months S.I. for each offence. Both the sentences were directed to run concurrently. He has paid the fine amounts.

3. The learned Special Judge suspended the sentence of imprisonment enabling him to obtain appeal bail.

4. The petitioner, a public servant / Surveyor, is alleged to have demanded Rs.3,000/- from P.W.2 as illegal gratification to discharge his public duty of measuring land.



5. P.W.1 had sanctioned this prosecution. P.W.2 deposed about the demand and acceptance. P.Ws.3 and 4, who are official witnesses, who have deposed about they having witnessed the events at the raided place. Finally, the I.O., elaborated the investigation conducted by him.

6. Relying on the said evidence, the learned Special Judge convicted and sentenced the petitioner as stated above.

7. Assailing the conviction, the learned counsel for the petitioner would contend that in this case the demand and acceptance have not been established beyond all reasonable doubts. The Investigation Officer summoned the Deputy Tahsildar / P.W.5. Even as per the prosecution version, P.W.5 was present during the trap proceedings. However, there is inconsistency in the evidence of P.W.5 and other witnesses. There is *prima facie* case in favour of the petitioner.

8. On the other hand, the learned Government Advocate (Criminal Side) submitted that on a proper appraisal of the evidence adduced, the learned Special Judge has rightly convicted and appropriately sentenced the petitioner. There is no *prima facie* case in favour of the petitioner.

9. I have anxiously considered the rival submissions, perused the impugned Judgment and the relevant materials on record. In the facts and circumstances, I am of the view that certain eminently arguable points are involved in this criminal appeal. They are required to be examined in detail in the main criminal appeal. It will take some time for the disposal of the criminal appeal. I see *prima facie* case in favour of the petitioner. I am inclined to grant appeal bail to the petitioner.

10. Ordered as under:

- (i) Appeal bail granted.
- (ii) Sentence of imprisonment alone is suspended.
- (iii) There shall be two sureties, they and the petitioner shall execute a bond for Rs.15,000/- (Rupees fifteen thousand only) each to the satisfaction of the learned Special Judge under P.C.Act @ Madurai.
- (iv) 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/-
20/06/2016

/ TRUE COPY /



TO

1 THE SPECIAL JUDGE FOR PC ACT CASES, MADURAI

2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
MADURAI.

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

+1. C.C. to M/S M.SARAVANAN Advocate SR.No.31352

GJM/ARK/PV/SAR-II-21.6.16-3P-5C

ORDER

IN

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Date :20/06/2016