



WEB COPY

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

Monday, the Eighth day of August Two Thousand Sixteen  
PRESENT

**The Hon`ble Dr.Justice P.DEVADASS**

CRL MP(MD) No.6495 of 2016

IN

CRL A(MD) No.281 of 2016

JOSE DHANAPAL

... PETITIONER/APPELLANT/ACCUSED

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE  
VIGILANCE & ANTI CORRUPTION DEPARTMENT,  
NAGERCOIL.  
CR. NO.7/2008

... RESPONDENT/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 imposed on me by the Honourable Special Judge cum Chief Judicial Magistrate, Nagercoil dated 13.6.2016 made in Special Case No.2 of 2010 pending disposal of the above appeal.

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

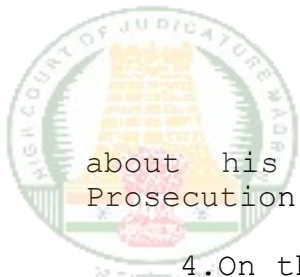
While challenging his conviction and sentence in S.C.No.2 of 2010, on the file of learned Special Judge under P.C. Act/Chief Judicial Magistrate, Nagercoil, the petitioner seeks appeal bail under Section 389(1) Cr.P.C.

2.In the trial Court, the appellant was convicted and sentenced as under:

| Conviction                                                             | Sentence                                           |
|------------------------------------------------------------------------|----------------------------------------------------|
| Under Section 7 of Prevention of Corruption Act, 1988                  | 1 year R.I. and fine Rs.5,000/- i/d 3 months R.I.  |
| Under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 | 2 years R.I. and fine Rs.5,000/- i/d 3 months R.I. |

Both the sentences were directed to run concurrently. Fine amounts were paid. To enable the accused to obtain appeal bail from this Court, the trial Court has granted interim suspension of sentence.

3.The learned counsel for the petitioner submitted that the prosecution has failed to establish the charges framed against him beyond all reasonable doubts. 'Demand' as well as 'acceptance' aspects were not proved. P.W.2 is not consistent in his chief and cross examination. According to P.W.2 he met the Executive Officer (who is competent to assess the property tax) alone on 17.10.2008, but it is not the case of the prosecution that he met the Executive Officer and he directed P.W.2 to approach the appellant. The witness examined to speak



about his witnessing the trap operation is also not consistent. Prosecution case suffers from several inherent improbabilities.

4. 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.

5. I have anxiously considered the rival submissions, perused the impugned judgment and also referred to relevant piece of evidence. I am of the view that certain arguable points are involved in this Criminal Appeal. Further, the petitioner was on bail in the trial Court. It will take some time for the disposal of this appeal. I see prima-facie case in his favour. I am inclined to grant him appeal bail.

6. 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.15,000/- (Rupees Fifteen thousand only) each to the satisfaction of learned Special Judge-cum-Chief Judicial Magistrate, Nagercoil.

(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/-

08/08/2016

/ TRUE COPY /

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

TO

1 THE SPECIAL JUDGE CUM CHIEF JUDICIAL MAGISTRATE, NAGERCOIL.

2 THE INSPECTOR OF POLICE  
VIGILANCE & ANTI CORRUPTION DEPARTMENT, NAGERCOIL.

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

+1. C.C. to M/S F.DEEPAK Advocate SR.No.42861

ORDER

IN

CRL MP(MD) No.6495 of 2016

IN

CRL A(MD) No.281 of 2016

Date : 08/08/2016

PA/DB/SAR AE/09.08.2016/2P/5C