

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Eleventh day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRL. M.P. Nos.7914, 7978, 7820, 7935, 8062,
8063 & 8576 of 2017 in

CRL. A.Nos.359, 366, 355, 363, 373, 372 & 398 of 2017

1 G.PUNNIYAMOORTHY
2 M.AKBAR ALI

[PETITIONERS
IN CRL.A.359 OF 2017]

R.GOPAL

[PETITIONER
IN CRL.A.366 OF 2017]

D.BASKAR

[PETITIONER]
IN CRL.A.355 OF 2017]

R.ARUNACHALAM

[PETITIONER
IN CRL.A.363 OF 2017]

D. PACHIYAPPAN

[PETITIONER
IN CRL.A.373 OF 2017]

P.KANAGARAJ

[PETITIONER
IN CRL.A.372 OF 2017]

R.SIVAKUMAR

[PETITIONER
IN CRL.A.398 OF 2017]

Vs

STATE REPRESENTED BY
THE DEPUTY SUPERINTENDENT OF POLICE,
ECONOMIC OFFENCES WING-II,
SALEM DISTRICT.

[RESPONDENT
IN ALL THE PETITIONS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

[i] suspend the sentence imposed in C.C.No.1 of 2011 on the file of the Court of the Special Judge under TNPID Act, Coimbatore dated 19.06.2017 and release the petitioners on bail pending disposal of the above CRL. A.Nos.359 & 355 of 2017 [IN CRL.MP.NO.7914 & 7820 OF 2017]

[ii] suspend the sentence imposed in C.C.No.1 of 2011 on the file of the Court of the Special Court, Special Judge under TNPID Act, Coimbatore dated 19.06.2017 and release the petitioners on bail pending disposal of the above CRL.A.No.366 of 2017] [IN CRL.MP.NO.7978 OF 2017]

[iii] suspend the sentence imposed in C.C.No.1 of 2011 dated 19.06.2017 on the file of the Special Judge, Special court under TNPID Cases, Coimbatore and enlarge the petitioner on bail pending disposal of the above CRL.A.No.363 of 2017 [IN CRL.MP.NO.7935 OF 2017]

[iv] suspend the sentence imposed on the peitioner by Special Judge, Special Court under TNPID act cases at Coimbatore by judgement passed in C.C.No. 3 of 2011 dated 19.06.2017, pending disposala of the above CRL.A.NO.373 OF 2017 [IN CRL.MP.NO.8062 OF 2017]

[v] suspend the sentence imposed on the petitioner by Special Judge, Special Court under TNPID Act cases at Coimbatore by Judgment passed in C.C.No.1 of 2011 dated 19.06.2017 pending disposal of the CRL.A.NO.372 OF 2017 [IN CRL.MP.NO.8063 OF 2017]

[vi]suspend the conviction and sentence imposed on the petitioner in C.C.No.1 of 2011 dated 19.06.2017 on the file of the Special Judge, Special Court under TNPID Act Cases, coimbatore and enlarge the petitioner on bail pending disposal of the above CRL.A.NO.398 OF 2017 [IN CRL.MP.NO.8576 OF 2017]

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.DORAISAMY, Advocate [IN CRL.A.NO.359 & 355 OF 2017] and of M/S.K.KUPPUSAMY Advocate [IN CRL.NO.366 OF 2017] and of M/S.M.N.BALAKRISHNAN Advocate [IN CRL.A.NO.363 OF 2017] and of M/S.M.RAJASEKHAR Advocate [IN CRL.A.NO.373 & 372 OF 2017] and of M/S.C.PRAKASAM Advocate [IN CRL.A.NO.398 OF 2017] for the petitioner and of MR. K.MATHAN, Govt. Advocate (Crl. Side) [IN ALL THE PETITIONS] on behalf of the Respondents the court made the following order:-

Heard both sides.

2. The petitioners/appellants herein are the accused in C.C.No.1 of 2011 on the file of the learned Special Judge under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act, 1997 [hereinafter referred to as "TNPID Act"], Coimbatore. They were convicted for the offence under Section 5 of TNPID Act [94 counts] and sentenced to undergo five years Rigorous Imprisonment and also to pay a fine of Rs.7,000/- for each counts [94 counts] (i.e. Rs.6,58,000/-), in default, to undergo one year Rigorous Imprisonment. Aggrieved by the judgment of the Trial Court, they have preferred the above appeals. Pending appeals, the present

petitions have been filed to suspend the sentence.

3. The case of the prosecution is that the petitioners and the other accused are partners of Financial Institution [A-1] and they have collected money from various depositors to the tune of Rs.1,83,21,118/- and committed default, in repaying the deposit amounts. On the basis of the evidence of depositors, the Trial Court has convicted and sentenced the accused as aforesaid.

4. The learned counsel appearing for the petitioners would submit that several efforts have been taken to settle the dues payable to the depositors and assured that they will settle the dues within a period of 45 days. He would further submit that since the Trial Court has imposed huge amount as fine, they are unable to pay the same and prays time for payment of fine also. It is also submitted that they have no intention to cheat the depositors and that, on account of business loss, they are unable to pay the money and that, therefore it is a fit case for ordering suspension of sentence.

5. The learned Government Advocate [Criminal Side] appearing for the respondent has filed objection. He would submit that the properties worth about Rs.5 crores have been attached invoking the provisions of TNPID Act. He would further submit that the Trial Court on appreciation of entire evidence has come to the conclusion that the petitioners had committed the offence and that, there is no case for suspension of sentence.

6. I have perused the grounds of appeal and the judgment of the Trial Court in C.C.No.1 of 2011 on the file of the learned Special Judge under TNPID Act, Coimbatore dated 19.06.2017.

7. The aim of the TNPID Act is to protect the interest of the depositors. The petitioners have come forward to settle the dues. There is no fear that they will flee from justice. Having regard to the facts and circumstances of the case and bearing in mind the aim of the TNPID Act, I am inclined to suspend the sentence for a limited period and grant bail subject to stringent condition, so as to enable the petitioners and other accused to raise funds and settle the dues.

8. Hence, the sentence imposed on the petitioners by the Trial Court is hereby suspended for a period of 45 days and the petitioners are ordered to be enlarged on bail on each of them executing a bond for Rs.5,000/- [Rupees Five Thousand only] with two sureties each for a likesum to the satisfaction of the learned Special Judge under TNPID Act, Coimbatore, within a period of two weeks from the date of this order and on further condition that the

petitioners shall report before the trial Court once in a week on every Monday at 10.30 a.m.

9. The petitioners shall surrender before the Trial Court after 45 days from the date of their release from the prison.

-sd/-
11/07/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE UNDER
TNPID ACT, COIMBATORE.

2 THE SPECIAL JUDGE,
COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE DEPUTY SUPERINTENDENT OF POLICE,
ECONOMIC OFFENCES WING-II,
SALEM DISTRICT.

+3C.C. to M/S.S.DORAISAMY Advocate on payment of necessary
charges SR NOS.12822 & 12823

+1C.C. to M/S.K.KUPPUSAMY Advocate on payment of necessary
charges SR NOS.12791

+1C.C. to M/S.M.N.BALAKRISHNAN Advocate on payment of
necessary charges SR NOS.12802

+1C.C. to M/S.M.RAJASEKHAR Advocate on payment of necessary
charges SR NOS.12784, 12785

+1C.C. to M/S.M/S.C.PRAKASAM Advocate on payment of necessary charges SR NOS.12794

Order

in
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7820, 7935, 8062, 8063 &
8576 of 2017 in
CRL. A.Nos.359, 366, 355,
363, 373, 372 & 398 of 2017

Date :11/07/2017

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MK:11/07/2017