

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.7980 of 2017

IN CRL A.368/2017

V.KALIYAMMAL,

[PETITIONER]

Vs

STATE REPRESENTED BY

[RESPONDENT]

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

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.368/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in C.C.No.3 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 petitioner on bail pending disposal of the above criminal appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Appeal No.368/2017 on the file of the High Court and upon hearing the arguments of M/S.K.KUPPUSAMY Advocate for the petitioner and of MR.K.MATHAN Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

Heard both sides.

2.The petitioner seeks suspension of sentence pending disposal of the appeal.

3. The petitioner/appellant herein is the third accused in C.C.No.3 of 2011 on the file of the Court of the Special Judge, under TNPID Act, Coimbatore. She was found guilty of the offence u/s.5 of the TNPID Act (54 counts) and she was convicted and sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.7,000/- for each counts (54 counts) (i.e. Rs.3,78,000/-), in default, to undergo further period of one year Rigorous Imprisonment for an offence under Section 5 of the TNPID Act (54 counts).

4. The case of the prosecution is that this petitioner and the other accused are partners of a financial institution (A1) and they have collected money from 30 depositors to the tune of Rs.72,94,160/-

and committed default in repaying the deposit amounts.

5. Learned counsel for the petitioner would submit that the petitioner is an aged woman and she was not responsible for the affairs of the financial establishment and she has nothing to do with the alleged default and that therefore, she may be granted bail pending appeal by suspending the execution of the sentence.

6. Learned Government Advocate would submit that the prosecution has produced materials to show that the petitioner and other accused are the partners and they have also participated in the management of the financial institution. He would further point out that the trial Court on appreciation of entire evidence has come to the conclusion that the petitioner has committed the offence and there is no case for suspension of sentence.

7. I have perused the grounds of appeal and the judgment of the Trial Court in C.C.No.3 of 2011 on the file of the Court of the Special Judge under TNPID Act, Coimbatore dated 19.06.2017.

8. The petitioner is a woman and she has been sentenced to undergo imprisonment for a fixed period of 5 years. There is no fear that she will flee from justice. It is also submitted by the learned counsel for the petitioner that the other accused are taking genuine steps to repay the amount to the depositors and compound the offences. Taking all these factors into consideration, I am inclined to suspend substantive sentence of imprisonment alone subject to the following conditions.

9. Hence, the sentence of imprisonment imposed on the petitioner by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on his 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 petitioner shall report before the trial Court once in a week on every Monday at 10.30 a.m. until further orders.

10. The petitioners are directed to pay the fine amount imposed by the trial Court within 45 days from the date of receipt of a copy of this Order.

11. On the failure of the petitioner, to comply with any of the above said conditions, the suspension granted to her shall stand automatically cancelled and the Magistrate concerned shall take necessary steps to secure the petitioner/accused.

-sd/-

06/07/2017

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 COURT
SPECIAL JUDGE, UNDER TNPID ACT,
COIMBATORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, WOMEN WING, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

+1 C.C. to M/S.K.KUPPUSAMY Advocate on payment of necessary
charges SR.NO. 12453

Order

in
CRL MP.7980/2017

in
CRL A.368/2017

Date :06/07/2017

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RD 10/07/2017