



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

Monday, the Twenty Third day of October Two Thousand Seventeen

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PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP (MD) No.9477 of 2017

IN

CRL A (MD) No.415 of 2017

ARULDASS

... PETITIONER/APPELLANT

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
THANJAVUR, THANJAVUR DISTRICT,
CRIME NO.8/2004

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon him in Special Case No.53/2014 on the file of the Learned Special Judge cum Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District by Judgement dated 04/10/2017 pending disposal of the above Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.N.SUBRAMANI, Advocate for the petitioner and Mr.T.MOHAN, Additional Public Prosecutor, on behalf of the Respondent, while admitting this Crl.A., this court made the following order:-

The accused in Special Case No.53 2014, on the file of the learned Special Judge Cum Chief Judicial Magistrate, Thanjavur District, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

2. After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 467 IPC.,	1 Year S.I., Fine Rs.500/- i/d., 3 Months S.I.
Section 471 IPC.,	1 Year S.I., Fine Rs.500/- i/d., 3 Months S.I.
Section 477 (A) IPC.,	1 Year S.I., Fine Rs.500/- i/d., 3 Months S.I.



3. Fine Amount has been paid and he has also produced a copy of the receipt.

4. The learned counsel appearing for the petitioner would submit that P.Ws.2 to P.W.5 are the officials of the Public Works Department and they had admitted in their evidence that the Executive Officers are responsible for employing N.M.R(Non Muster Roll) and the said N.M.R. were personally verified during dispersal of the salary and the process would be scrutinized by the Assistant Executive Engineer as well. It is further stated that P.Ws.2 to 5 were admitted that the Executive Engineer and Assistant Executive Engineer would have done field visit to verify the N.M.Rs., and suitable orders would be passed. The charges under the Prevention of Corruption Act had not been proved by the prosecution through proper evidence in this case and there is no legal evidence to prove the charges for which the petitioner stood convicted in this case. He also submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and the same are required to be revised and there is *prima facie* case in favour of the petitioner. He also submitted that the trial Court has also suspended the sentence of imprisonment till 03.11.2017 as per order in Cr.M.P.No.1465 of 2017 dated 04.10.2017.

5.The learned Additional Public Prosecutor appearing for the respondent submitted that the court below has rightly convicted the petitioner on the basis of the evidence adduced by the prosecution and there is no *prima facie* case in this appeal. However, he has no objection to grant order of suspension stating that the trial Court had suspended the sentence for a particular period and he has no objection to grant the suspension of sentence during pendency of this appeal.

6.In the facts and circumstances, perusing the impugned Judgment and the materials on record, 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. Accordingly, the petition is allowed on the following conditions:

(i) Appeal bail is granted.

(ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned Special Judge Cum Chief Judicial Magistrate, Thanjavur District.



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

sd/-
23/10/2017

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

TO

- 1 THE SPECIAL JUDGE CUM CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT
 - 2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
THANJAVUR, THANJAVUR DISTRICT.
 3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
- +1. C.C. to M/S.A.THIRUVADI KUMAR Advocate SR.No.32973

ORDER
IN
CRL MP (MD) No.9477 of 2017
IN
CRL A (MD) No.415 of 2017
Date :23/10/2017

msa
SH/CM-MSA/SAR-2:23.10.2017: 3P/5C