

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourteenth day of August Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.10275 of 2018

IN CRL A.453/2018

M.SEKAR,

[PETITIONER/APPELLANT]

vs

STATE REPRESENTED BY
INSPECTOR OF POLICE,
VIGILANCE & ANTI CORRUTPTION.
VELLORE DISTRICT.
CR.NO.09 OF 2003.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.453 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Special Case No.01 of 2005, on the file of the Special Judge cum Chief Judicial Magistrate, Vellore dated 23-07-2018 and enlarge the appellant on bail, pending disposal of the above Crl.A.453/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.453 of 2018 on the file of the High Court and upon hearing the arguments of MR.ADITHYA VARADARAJAN, Advocate for the petitioner and of MR. K.PRABAKAR, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Heard both sides.

2.The petitioner/appellant seeks suspension of sentence imposed in Special Case No.01 of 2005, by the Special Judge-cum- Chief Judicial Magistrate, Vellore District dated 23.07.2018 and enlarge him on bail, pending disposal of the appeal.

3. The petitioner/appellant herein is the second accused in Special Case No.1 of 2005 on the file of the Special Judge-cum-Chief Judicial Magistrate, Vellore District. He was found guilty of the offence u/s.7 & 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 7 of P.C Act	2 years S.I and fine of Rs.2,500/- in default to undergo S.I for two months.
2.	Section 13(2) r/w 13(1)(d) of P.C Act	2 years S.I. and fine of Rs.2,500/- in default to undergo S.I for two months.

Aggrieved against the same, the petitioner has preferred this appeal.

4. The case of the prosecution is that the petitioner/appellant was working as B1 Assistant in the Taluk Office at Vaniyambadi Town, Vellore District. The de-facto complainant Muniyammal had made an application for issuance of a legal heir certificate for her mother-in-law Salammal, so that the EB service connection for their pump set could be transferred in her husband's name. It is the further case of the prosecution that A1 in this case who was working as Revenue Inspector had demanded a sum of Rs.400/- from the de-facto complainant as illegal gratification for processing the application and unwilling to pay the same the de-facto complainant had lodged a complaint with the respondent police. A FIR in Crime No.9 of 2003 dated 26.11.2003 was registered under Section 7 of Prevention of Corruption Act against the petitioner/appellant and a trap was laid against A1 on 27.11.2003. The further averment is that the de-facto complainant went to the office of A1 and that A1 had demanded a bribe amount and the same was paid by the de-facto complainant and A1 kept Rs.150/- and asked the de-facto complainant to pay Rs.250/- to the petitioner/appellant herein. The de-facto complainant thereafter came out of the office and made pre-arranged signal to the trap laying officer, the trap laying officer entered into the office, conducted phenolphthalein test and recovered the amounts. Thereafter, charged under Section u/s.7 & 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 were framed and the trial was conducted and on behalf of the prosecution 17 witnesses were examined and 15 exhibits and 15 material objects were marked and on the side of the petitioner/appellant, one exhibit was marked. The appellant who was arrayed as A2 along with A1 was found guilty and convicted and sentenced to undergo Rigorous Imprisonment for 2 years for each offence and to pay a fine of Rs.2500/- for each offence, in default to undergo S.I for 2 months for each offence and the sentences have been directed to run concurrently.

5. The learned counsel for the petitioner/appellant would submit that the petitioner/appellant was on bail during trial and that the trial Court after conviction has suspended the sentence till 20.08.2018. He would further submit that the petitioner had given an explanation with regard to the receipt of the amount which was towards the flag day contribution. He would further submit that the trial Judge/Special Judge-cum-Chief Judicial Magistrate, Vellore ignoring the explanation had convicted the petitioner/appellant herein and would further submit that the petitioner has got valid legal grounds for appeal and that there is a fair chance of succeeding the appeal and submit that the appeal may take some time

for final hearing and prayed that the sentence may be suspended pending appeal.

6. The learned Public Prosecutor for V & AC Cases would submit that the petitioner was on bail during trial and the sentence has been suspended till 20.08.2018 and the fine amount has also been paid by the petitioner.

7. Taking into consideration the submissions made by the learned counsels, the substantive sentence of imprisonment alone is suspended subject to the following conditions.

8. 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.10,000/- [Rupees Ten thousand only] with two sureties each for a likesum to the satisfaction of the learned Special Judge-cum-Chief Judicial Magistrate, Vellore and on further condition that the petitioner shall report before the trial Court on the first working day of every month, until further orders.

-sd/-

14/08/2018

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.

सत्यमेव जयते

TO

1 THE SPECIAL JUDGE-CUM
CHIEF JUDICIAL MAGISTRATE, VELLORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 STATE REPRESENTED BY
INSPECTOR OF POLICE,
VIGILANCE & ANTI CORRUPTION.
VELLORE DISTRICT.

WEB COPY

+1 C.C. to M/S.A.E.RAVICHANDRAN Advocate on payment of necessary charges-Sr.15245

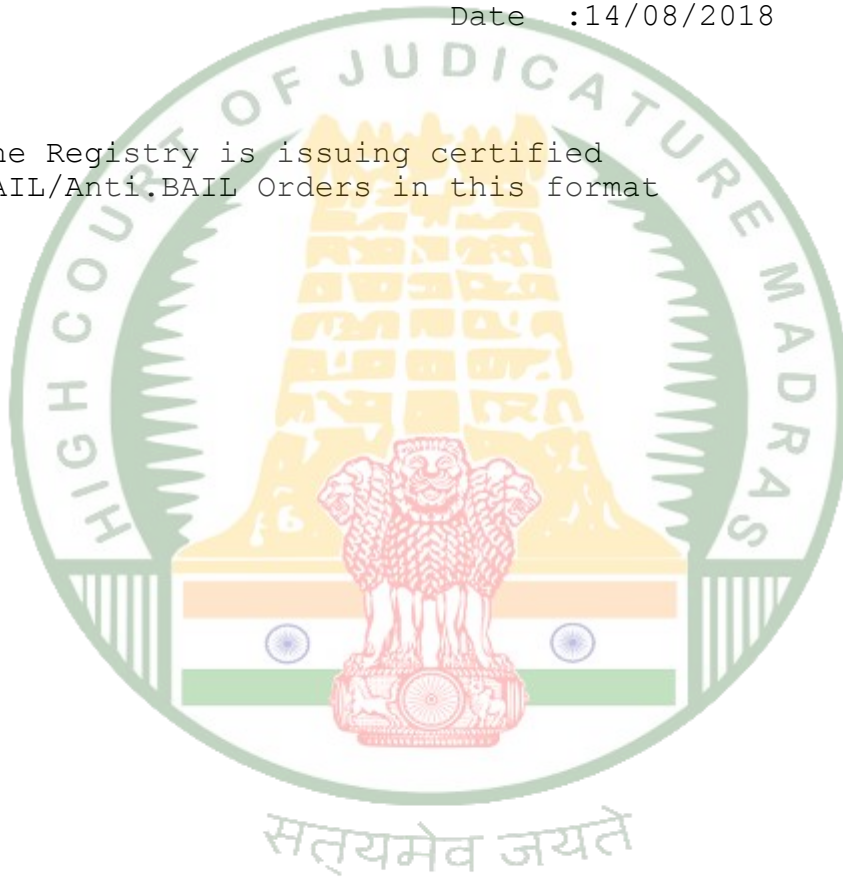
Order

in
CRL MP.10275/2018

in
CRL A.453/2018

Date :14/08/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
ths : 16.08.2018



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