

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fifth day of September Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.11276 of 2018

IN CRL A.508/2018

J.VENKATESH

[APPELLANT / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

INSPECTOR OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
CHENNAI CITY-II DETACHMENT,
CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.508/2018 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence dated 21.08.2018 passed in Special Case No.3 of 2012 against the petitioner/Appellant by the Special Judge and Chief Judicial Magistrate, Thiruvallur enlarge him on bail pending disposal of the above CRL A.508/2018 [IN CRL.MP.NO.11276 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.508/2018 on the file of the High Court and upon hearing the arguments of M/S.T.KARTHIKEYAN, Advocate for the petitioner and of MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petition has been filed to suspend the execution of the sentence of imprisonment imposed in the judgment dated 21.08.2018 made in Special Case No.3 of 2012 on the file of the learned Special Judge and Chief Judicial Magistrate, Thiruvallur pending disposal of the appeal.

2. The Petitioner/appellant herein is the first accused in Special Case No.3 of 2012 on the file of the learned Special Judge / Chief Judicial Magistrate, Thiruvallur. He was found guilty of the offences 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 1988.	4 years R.I and fine of Rs.7,000/- in default to undergo S.I for 6 months.

S.No.	Conviction	Sentence
2.	Section 13(2) r/w 13(1) (d) of P.C Act 1988.	3 years R.I and fine of Rs.7,000/- in default to undergo S.I for 3 months.

Aggrieved against the same, the petitioner has preferred this appeal and also filed the petition for suspension of execution of the sentence.

3. The case of the prosecution is that the appellant/accused No.1 was working as Revenue Assistant in Ambattur Municipality from 26.06.2000 to 08.03.2010 is a public servant defined under Section 2 (C) of the Prevention of Corruption Act 1988. When he submitted his application for assessment of municipal tax for his newly purchased two flats on 23.02.2010, the appellant/accused No.1 had demanded an illegal gratification of Rs.5000/- from the de-facto complainant and also told him that if he pay Rs.5000/- as bribe for each flat he would reduce the tax similar amount. Thereafter, on 05.03.2010, when the complainant met the appellant/accused No.1 to expedite tax assessment and levy the same he demanded to pay half of the bribe amount of Rs.5000/- on 08.03.2010 to consider his request. On 08.03.2010 at 4.40 p.m, the complainant met A1 at his office, A1 reiterated his earlier demand and accepted by instructing A2 to collect the amount outside the office and hand it over to A3 and thereby committed the offences punishable under Section 7, 13(2) r/w Section 13(1) (d) of the Prevention of Corruption Act .

4. The learned counsel for the appellant/accused would submit that no recovery has been made from the appellant. He would submit that even as per the evidence on record, the appellant/accused is not the person who is authorised to assess the tax and the tax assessment has to be made only by the commissioner. He would submit that though it has been stated by P.W2 that the initial demand had been made on 02.03.2010, it has not been corroborated by any witness. Further, he would submit that as per the prosecution case, a second demand was alleged to be made on 05.03.2010 by telephone. Whereas the call details till 04.03.2010 were only produced in this case. He would further submit that the trap had been laid on 08.03.2010 and no explanation has been given for the delay of 3 days for laying the trap. He would further reiterate that the recovery had been made only from A3 who is the cashier who is entitled to collect money on behalf of the Ambattur Municipality. The learned counsel for the Petitioner/Appellant would submit that there are arguable points available in the appeal and that the petitioner has got a fair chance of succeeding the appeal and that it would take considerable time for final hearing of the appeal, would pray that the substantive sentence imposed against the petitioner may be suspended. He would also submit that the fine amount has been paid.

5. The learned Additional Public Prosecutor for V & AC cases has raised objections for suspending the sentence.

6. Taking into consideration the submissions made by the learned counsels, the substantive sentence of imprisonment alone is suspended.

7. 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.50,000/- [Rupees Fifty thousand only] with two sureties each for a like sum to the satisfaction of the learned Special Judge and Chief Judicial Magistrate, Thiruvallur and on further condition that the petitioner shall report before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
25/09/2018

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.

TO

1 THE SPECIAL JUDGE,
AND CHIEF JUDICIAL MAGISTRATE,
THIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
V&AC, CITY-II DETACHMENT,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

+1C.C. to M/S.T.KARTHIKEYAN Advocate on payment of necessary charges SR NO.18106

Order

in
CRL MP.11276/2018

in
CRL A.508/2018

Date :25/09/2018

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

MK:25/09/2018



WEB COPY