

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Third day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.2709 of 2018

IN CRL A.118/2018

S.ANNADURAI, M/60

[PETITIONER]

Vs

THE STATE BY
INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
SALEM. CR.NO.14/AC/2002.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.118/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the Judgment dated 30.01.2018 passed in Spl.CC.No.40/2014 on the file of Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act) Salem and enlarge 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.A.No.118/2018 No. on the file of the High Court and upon hearing the arguments of M/S.R.NEELAKANDAN, Advocate for the petitioner and of MRS.S. THANKIRA, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence of imprisonment imposed against the petitioner / appellant by the learned Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem in Spl.CC.No.40/2014 on 30.01.2018.

2.Though charges were framed against the petitioner under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act and also under Sections 167, 467, 468, 471 and 420 r/w 109 of

IPC, the Trial Court has acquitted the petitioner from the charges framed for the offences punishable under the provisions of the Prevention of Corruption Act.

3.However, the Trial Court has convicted the petitioner for other offences under IPC as referred to above.

4.The maximum sentence inflicted on the petitioner / appellant is two years as the petitioner / appellant had been directed to undergo the sentences for various offences concurrently.

5.The learned counsel for the petitioner has submitted that, since the charges against the petitioner under the Prevention of Corruption Act goes, as he has been acquitted by the Trial Court, the further charges under the provisions of IPC as referred to above, may not stand, as A-1/ petitioner / appellant was the Government Servant and he is not at all the beneficiary.

6.The learned counsel for the petitioner would also submit that in the same case, A-2 had already moved an appeal in CrI.A.No.94 of 2018 wherein this Court already suspended the sentence imposed against A-2 vide order dated 16.02.2018. The learned counsel would further submit that, enabling the petitioner / appellant to move this appeal, the Trial Court itself has suspended the sentence by order dated 30.01.2018 till 28.02.2018.

7.Ms.S.S.Thankira, learned Government Advocate (CrI.Side), on direction, has taken notice on behalf of the respondent.

8.Since the interim suspension has already been made by the Trial Court itself against the sentences made against the petitioner / appellant, and also the co-accused (A-2) had already moved an appeal before this Court and got an order of suspension of sentence, considering the nature and circumstances of the case and also for the reason that grounds urged by the petitioner / appellant in this appeal since can be decided only at the time of final hearing of the appeal and it will take some reasonable time for final hearing of the appeal, this Court is inclined to pass the following order:

This petition is allowed and the substantive sentence of imprisonment alone is suspended, and the petitioner / appellant shall be enlarged on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties each for a likesum to the satisfaction of the Special Judge (Special Court for Trial Cases under the Prevention of Corruption Act), Salem, within a period of two weeks from the date of receipt of a copy of this order and

also the petitioner / appellant shall appear before the Court below on the first working day of every English Calender month at 10.30 a.m., until further orders.

-sd/-
23/02/2018

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
(SPECIAL COURT FOR TRIAL CASES UNDER THE
PREVENTION OF CORRUPTION ACT), SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE STATE BY
INSPECTOR OF POLICE, VIGILANCE AND ANTI
CORRUPTION, SALEM.

+1 C.C. to M/S.R.NEELAKANDAN Advocate on payment of
necessary charges Sr.No.3857

Order
in
CRL MP.2709/2018
in
CRL A.118/2018

Date :23/02/2018

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MD: 26/02/2018