

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Sixth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL MISCELLANEOUS PETITION No.7885 of 2018

IN CRL A.338/2018

D.SELVARAJ

[PETITIONER]

Vs

STATE BY DEPUTY SUPERINTENDENT OF POLICE, [RESPONDENT]
VIGILANCE AND ANTI-CORRUPTION,
ERODE. CR.NO. 5/AC/2004/ER.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.338/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in special CC No.03/2015 on the file of Special court for offences under prevention of corruption act at Tiruppur dated 7.6.2018 and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal NO.CRL A.338/2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.338/2018 on the file of the High Court and upon hearing the arguments of MR.A.K.KUMARASAMY, SENIOR COUNSEL FOR MR.S.KAITHAMALAI KUMARAN, Advocate for the petitioner and of M/S.THANKIRA, GOVERNMENT ADVOCATE [CRL.SIDE] on behalf of the Respondent the court made the following order:-

The petitioner/appellant is arrayed as sole accused in Spl.C.C.No.03 of 2015 on the file of the learned Chief Judicial Magistrate, Tiruppur. He has been convicted for the offence under Section 7 of Prevention of Corruption Act and sentenced to undergo Rigorous Imprisonment for two years and to pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for six months; convicted under Section 13(1)(d) r/w 13(2) of Prevention of Corruption Act and sentenced to undergo Rigorous Imprisonment for five years together with fine of Rs.1,000/-, in default to undergo Simple Imprisonment for six months vide impugned judgment dated 07.06.2018. However, the sentences ordered to run concurrently and also granted set-off under section 428 Cr.P.C. The petitioner prays for suspension of sentence.

2 While the trial Court has found the appellant/accused guilty for demanding of Rs.750/- as illegal gratification to transfer the name of the electricity consumer, contrarily the defence taken by the appellant is that he was working as Assistant in Electricity Board, had received Rs.750/- towards transfer charges. The trial Court has

disbelieved the defence version and had held him guilty. Challenging the said judgment the present appeal is filed.

3 While the prosecution case indicates that the petitioner/appellant initially demanded Rs.3,000/- for name transfer, later reduced to Rs.750/- and received the same on the day of trap, the case of the defence is Rs.750/- was paid towards transfer charge. PW.5-a Superior Officer of the accused-appellant had deposed in support of the defence. This testimony has to be re-appreciated in the appeal. It is prayed that pending appeal, the petitioner sentence may be suspended and the petitioner may be released on bail.

4 Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side).

5 In the light of the grounds of the appeal, this Court is inclined to grant bail to the petitioner/accused. This petition is allowed to the effect the substantive sentences of imprisonment alone is suspended on the following conditions;

(i) the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- [Rupees one lakh only] with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate, Tiruppur.

(ii) the petitioner shall appear before the said Court on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

(iii) In case of any default in reporting, the learned Chief Judicial Magistrate, Tiruppur shall take appropriate action without further reference to this Court.

-sd/-
26/06/2018

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 JUDICIAL MAGISTRATE,
TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
ERODE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1C.C. to M/S.S.KAITHAMALAI KUMARAN Advocate on payment of
necessary charges in SR.NO. 11493

Order

in
CRL MP.7885/2018

in
CRL A.338/2018

Date :26/06/2018

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MLT-28/06/2018