

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twelfth day of February Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.2013 of 2019

in CRL.A.NO.76/2019

P.MURUGESAN

[PETITIONER/APPELLANT/ACCUSED]

vs

STATE REP. BY
INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
NAMAKKAL.
CR.NO.01/AC/2009.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.76 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence till the disposal of appeal by enlarging the petitioner on bail in Spl.Case No.54 of 2010 on the file of Special Judge/Chief Judicial Magistrate at Namakkal dated 24.01.2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.76 of 2019 on the file of the High Court and upon hearing the arguments of MR.P.EZHILNILAVAN, Advocate for the petitioner and of MR. K.PRABAKAR, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petition has been filed to suspend the sentence of imprisonment imposed in the judgment dated 24.01.2019 made in Spl.Case.No.54 of 2010 on the file of the learned Special Judge/Chief Judicial Magistrate, Namakkal, pending disposal of the appeal.

2. The petitioner/appellant herein is the accused in Spl.Case.No.54 of 2010 on the file of the learned Special Judge/Chief Judicial Magistrate, Namakkal. 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	3 years S.I and fine of Rs.2,500/- in default to undergo S.I for 1 month

S.No.	Conviction	Sentence
2.	Section 13(2) r/w 13(1) (d) of P.C Act	3 years S.I and fine of Rs.2,500/- in default to undergo S.I for 1 month

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

3. The case of the prosecution is that the defacto complainant being an agriculturist approached the Indian Bank, Paramathivelur, to buy a tractor. The bank officials instructed him to bring the extracts of computer chitta and adangal, FMB, A-Register, Possession and enjoyment certificate and land tax receipt for the land acquired by him. To get the above mentioned documents he approached the petitioner/appellant, who worked as a Village Administrative Officer, at his residence on 06.01.2009. For which, the appellant instructed him to pay the arrears of land tax and water assessment charges. Apart from that he demanded Rs.500/- as illegal gratification to issue the above mentioned documents. Therefore, a trap was laid on 29.01.2009 and the petitioner/appellant was got red handed while accepting the bribe amount and thereby, the respondent registered a case for the offences punishable under Sections 7 and 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988.

4. The learned counsel for the petitioner/appellant would submit that at the time of registration of the case the petitioner/appellant was immediately arrested after the trap proceedings and remanded to judicial custody. Thereafter, he was in judicial custody for about 15 days and he had been granted bail by the Special Judge/Chief Judicial Magistrate for trial of cases under Prevention of Corruption Act, Namakkal. He would further submit that the petitioner was on bail throughout the trial and that he has not misused the liberty granted to him. He would further submit that the sentence of the petitioner is suspended by the trial Court till 22.02.2019 and that he has also paid the fine amount. He would also submit that the petitioner has attained the age of superannuation, during the year 2013 and he has not been permitted to retire from service and also the terminal benefits have not been settled to him so far. He would submit that the petitioner is aged about 62 years and he would also submit that there are arguable points available in the appeal and that the petitioner has got a fair chance of succeeding the appeal and would pray that it may take some time for the records to be made ready and the appeal being listed for final hearing. Therefore, he prays for grant of suspension of sentence to the petitioner/appellant.

5. The learned Additional Public Prosecutor appearing for respondent opposed to grant suspension of sentence to the petitioner.

6. Taking into consideration the submissions made by the learned counsels and also considering that there are arguable points available in the appeal, I am inclined to suspend the substantive sentence of imprisonment alone subject to the following conditions that:-

(i) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge/Chief

Judicial Magistrate for trial of cases under Prevention of Corruption Act, Namakkal.

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

-sd/-
12/02/2019

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/
CHIEF JUDICIAL MAGISTRATE
FOR TRIAL OF CASES UNDER
PREVENTION OF CORRUPTION ACT, NAMAKKAL.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
NAMAKKAL.

+1 C.C. to M/S.P.EZHILNILAVAN Advocate on payment of necessary charges-Sr.2998

Order

in
CRL MP.2013/2019
in CRL.A.NO.76/2019

Date :12/02/2019

From 7.2.2001 the Registry is issuing certified
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ths : 12.02.2019