

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Wednesday, the Eighteenth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.13427 of 2019

IN CRL A.624/2019

M.KATHIRVELU

[ PETITIONER ]

Vs

THE STATE REPRESENTED BY  
THE INSPECTOR OF POLICE,  
VIGILANCE AND ANTI-CORRUPTION,  
SALEM DISTRICT.  
CR.NO.3/AC/2007/SL.

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.624/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed by the Honble Special Judge, (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem in Spl.CC No.88/2014 dated 22.08.2019 and enlarge the petitioner on bail pending disposal of the above appeal.[CRL.MP.NO.13427/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.624/2019 on the file of the High Court and upon hearing the arguments of MR.S.UDYAKUMAR FOR M/S.KARAN AND UDAY, Advocate for the petitioner and of MR.T.P.SAVITHA Government Advocate[crl.side] on behalf of the Respondent the court made the following order:-

The petitioner/accused filed the above Crl.A.No.624 of 2019 against the Judgment of conviction and sentence passed by the learned Special Judge/Special Court for trial of cases under the Prevention of Corruption Act, Salem, dated 22.08.2019, in Spl.C.C.No.88 of 2014. The conviction and sentence imposed on the petitioner is tabulated below;

|                                                                                              |                                                                                                                                                  |
|----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| For the offence under section 7 of Prevention of Corruption Act                              | To undergo rigorous imprisonment for one year and to pay a fine of Rs.5000/-, in default, to undergo simple imprisonment for 3 months            |
| For the offence under section 13(2) r/w.13 (1) (a) (d) of Prevention of Corruption Act, 1988 | To undergo rigorous imprisonment for two years and to pay a fine of Rs.10,000/-, each, in default, to undergo simple imprisonment for six months |

Both the sentences are ordered to run concurrently.

2. Pending appeal, the petitioner has filed the present Crl.M.P.No.13427 of 2019 seeking suspension of sentence imposed on him by the trial court, pending disposal of the appeal.

3. The case of the prosecution against the petitioner is that the petitioner is working as Superintendent in District Treasury, Salem District. The defacto complainant, who was a retired Senior Siddha Pharmacist in Siddha Wing of Government Medical College Hospital, Salem. On 15.2.20017, the petitioner had demanded a bribe of Rs.500/- other than legal remuneration for passing the DCRG bill of defacto complainant submitted to the District Treasury, thereby the petitioner has committed the offences punishable under Prevention of Corruption Act abusing his official position.

4. Learned counsel for the petitioner would submit that the petitioner is an aged person and he has been falsely implicated in this case. He would further submit that there is no demand and the demand in this case has not been proved and a false case has been foisted against him. He would further submit that the DCRG bill of the complainant could not be processed without the annual audit advice note, due to which, motivated complaint has been given by the defacto complainant. The accompanying witness is not conformity to that of the decoy witnesses and there are lot of contradictions and infirmities in the investigation and there are arguable points in this appeal.

5. It is his further submission that the petitioner was enlarged on bail by the trial court during investigation and also during trial. The sentence of this petitioner had been suspended by the trial court till 20.9.2019. He further submitted that the petitioner has arguable points in this appeal and is having a fair chance of success. Thus he prayed for suspension of sentence imposed on the petitioner.

6. Learned Govt. Advocate (crl.side) would submit that the petitioner by abusing his official position, demanded Rs.500/- as illegal gratification from the complainant, who is a retired person for passing his DCRG Bill. She would further submit that the trial court has already suspended the sentence imposed on him till 20.9.2019.

7. Heard learned counsel for petitioner and the learned Govt. Advocate (crl.side) .

8. Considering the facts and circumstances of the case and the gravity of the offence, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is ordered to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees twenty five thousand only) with two sureties each for like sum to the satisfaction of the learned Special Judge/Special Court for trial of cases under the Prevention of Corruption Act,

Salem.

5.Further the petitioner is directed to appear before the trial Court on first working day of every month at 10.30 a.m.

-sd/-

18/09/2019

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/SPECIALCOURT  
FOR TRIAL OF CASES UNDER THE PREVENTION OF  
CORRUPTION ACT.SALEM

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,  
VIGILANCE AND ANTI-CORRUPTION,  
SALEM DISTRICT.

+1 C.C. to M/S.KARAN AND UDAY Advocate on payment of necessary charges SR.NO. 19480

Order

in  
CRL MP.13427/2019

in  
CRL A.624/2019

Date :18/09/2019

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format  
RD 18/09/2019