

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of February Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.2005 of 2021

IN CRL.A.NO.90 OF 2021

J.BALAKRISHNAN

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE INSPECTOR OF POLICE [RESPONDENT / COMPLAINANT]
VIGILANCE AND ANTI-CORRUPTION,
CITY SPECIAL UNIT-I,
CHENNAI-28.
CRIME NO.18 OF 2010.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.90 OF 2021 on the file of the High Court, the High Court will be pleased to suspend of the sentence dated 01.02.2021 passed in C.C.No.23 of 2011 against the petitioner / Appellant by the Learned Special Court for the case under Prevention of Corruption Act at Chennai-104 pending disposal of the above CRL.A.NO.90 OF 2021 [IN CRL.MP.NO.2005 OF 2021]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.90 OF 2021 on the file of the High Court and upon hearing the arguments of M/S.R.RAVICHANDRAN, Advocate for the petitioner and of MR.C.IYYAPPARAJ, ADDITIONAL PUBLIC PROSECUTOR (V & AC) on behalf of the Respondent the court made the following order:-

The Criminal Miscellaneous Petition has been filed by the Appellant/Accused, seeking to suspend the sentence dated 01.02.2021 passed in C.C.No.23 of 2011 against the petitioner / Appellant by the Special Court for trial of the cases under Prevention of Corruption Act, Chennai, pending disposal of the above Criminal Appeal.

2.The Appellant/Accused was found guilty for the offence under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Under Section 7 of the Prevention of Corruption Act, 1988	One Year Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo 3 sonths Simple Imprisonment.

S.No.	Conviction	Sentence
2.	Under Section 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988	Two Years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo three months Simple Imprisonment.

3. Aggrieved against the said conviction order, the Appellant/Accused has preferred this Criminal Appeal. Pending disposal of the Criminal Appeal, the Petitioner/Accused has filed the present Criminal Miscellaneous Petition, seeking for suspension of sentence.

4. The case of the prosecution is that the Appellant/Accused was working as Conservancy Inspector in Division 55 Unit II of Chennai Corporation. The defacto complainant after availing medical leave for 59 days, went to his office to join duty on 10.07.2010, at that time, the accused had demanded Rs.2,000/- as illegal gratification for himself other than legal remuneration paid to him. The accused had made a pre-trap demand of Rs.2,000/- from the de facto complainant on 29.09.2010. Thereafter, based on the complaint given by the defacto complainant, a trap was laid and the accused was caught red handed and thereafter a case was registered by the respondent. After completion of investigation, final report was filed against the Appellant/Accused for the offence under Sections 7 and 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988.

5. The learned counsel for the Appellant/Accused would submit that it is a case of trap. The Trial Court had failed to take into consideration the contradictions between the evidence of P.W.2 / defacto complainant and P.W.3 / R.Radha Krishnan. The Trial Court also failed to take into consideration the exaggerated evidence of the witnesses. He would submit that the Trial Court erred in convicting the Appellant/Accused when the prosecution has not proved the case beyond all reasonable doubts. He would submit that there are arguable points available in the appeal and that the Appellant/Accused is advised that he has got a fair chance of succeeding in the appeal. He would further submit that the Trial Court has suspended the sentence till 28.02.2021 and would submit that the fine amount has already been paid and would pray that the substantive sentence of imprisonment imposed against the Appellant/Accused may be suspended.

6. Learned Additional Public Prosecutor would submit that the Appellant/Accused was caught red handed while receiving the bribe amount from the defacto complainant. He would submit that the prosecution has proved his case beyond all reasonable doubts and that on the side of the prosecution, they have examined 19 witnesses as P.W.1 to P.W.19 and marked 21 documents as Ex.P1 to Ex.P21 and 6 material objects were marked as M.O.1 to M.O.6. Hence, he opposed for the grant of bail to the Appellant/Accused.

7.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Appellant/Accused is ordered to be enlarged on bail, on the following conditions:-

- i. The Appellant/Accused shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the Special Court for Trial of Cases under the Prevention of Corruption Act, Chennai.
- ii. The Appellant/Accused shall report before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

8.This Criminal Miscellaneous Petition stands ordered accordingly.

-sd/-
22/02/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO
1 THE SPECIAL COURT FOR PREVENTION CORRUPTION ACT CASES,
CHENNAI 600 104.

2 THE SPECIAL PUBLIC PROSECUTOR (V & AC)
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI-CORRUPTION,
CITY SPECIAL UNIT-I,
CHENNAI-28.

+1C.C. to M/S.R.RAVICHANDRAN Advocate on payment of necessary charges SR NO.2065

Order
in
CRL.MP.NO.2005/2021
in
CRL.A.NO.90/2021

Date :22/02/2021

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

MK:22/02/2021



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