

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.MP.No.5102 of 2021

in

CrI.A.No.167 of 2021

1. M/s.Asian Emu Farms (A-1)
Rep.by A2 to A8

2. K.Subramaniam(A2)
S/o.Kuppu

3. V.U.Sudheesh(A4)

4. G.Sivakumar(A5)

5. V.O.Francis(A6)

6. C.Sivan (A8)

... Petitioners

Versus

State by: Inspector of Police,
Economic Offences Wing II, Coimbatore.
(Crime No.2 of 2014)

... Respondent

PRAYER: Civil Miscellaneous Petition has been filed under Section 389 (1) r/w 482 of Criminal Procedure Code, to suspend the sentence imposed upon the petitioners by the learned Special Judge, Special Court under TNPID Act, Coimbatore, by Judgment dated 11.10.2021 in CC.No.17 of 2014 and enlarge the petitioners on bail.

For Petitioners : Mr.B.Mohan

For Respondent : Mr.Damodharan
Counsel for Government of Tamil Nadu
(CrI side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Special Judge, Special Court under TNPID Act, Coimbatore, in CC.No.17 of 2014 by Judgment dated 11.10.2021.

2. When the matter is taken up for hearing, learned counsel for the petitioners submitted that he is not pressing the relief of suspension of sentence as regards A1, A2, A5, A6, A8 since they did not surrender before the trial court. As regards A4, he surrendered before the court below and he is in judicial custody from 25.03.2021 to till date. The learned counsel for the petitioners contended that the third petitioner/V.U.Sudheesh/A4 has got good chance of success in the present appeal filed before this Court. The A4/V.U.Sudheesh, surrendered and he is in judicial custody on 25.03.2021. Therefore, he prayed for suspension of sentence and grant of bail.

3. The fourth accused has been convicted and sentenced by the learned Special Judge, Special Court under TNPID Act, Coimbatore, in CC.No.17 of 2014 for the following offences:-

Provision under which A4 convicted	Sentence
Section 420 and 406 of IPC., and Section 5 of TNPID Act, for the first Accused Frim.	(i) To pay fine amount of Rs.2000/- X 3 offences X 35 counts. (ii) in default further period of 1 year Simple Imprisonment for each offences.
Section 120 B of IPC.,	(i) To undergo 2 years Rigorous Imprisonment. (ii) To pay fine of Rs.2000 for each counts. (iii) in default to undergo further 1 year Simple Imprisonment.
Section 406 of IPC.,	(i) To undergo 3 years Simple Imprisonment. (ii) to pay fine of Rs.2,000/- for each counts. (iii) in default to undergo further 1 year Simple Imprisonment.
Section 420 of IPC.,	(i) To undergo 3 years Simple Imprisonment. (ii) to pay fine of Rs.2,000/- for each counts. (iii) in default to undergo further 1 year Simple Imprisonment.

Provision under which A4 convicted	Sentence
Section 5 of T.N.P.I.D., Act, 1997	(i) To undergo 3 years Simple Imprisonment. (ii) to pay fine of Rs.2,000/- for each counts. (iii) in default to undergo further 1 year Simple Imprisonment.
Total fine amount	Rs.3,15,000/-.

4.The learned counsel for Government of Tamil Nadu (Crl.side) appearing for the respondent has submitted that the trial court after taking into consideration of the evidence adduced by the prosecution has rightly convicted the petitioners, hence, he opposed to suspend the sentence.

5.Considering the rival submissions and perused the materials available on record. It is stated that the petitioners statutory bail before the Lower Court was rejected after foreclosing the opportunity of hearing the arguments to their respective counsel.

6. The Presiding Officer in the order dated 11.01.2021 has recorded the periodical adjournments granted at the instance of the accused and the opportunity given to them to settle the depositors. There are totally 35 depositors out of which 34 depositors have been settled as per Section 5 (A) of TNPID Act, except one depositor. It is stated that the petitioner is ready to settle the depositor to the extend of his liability. For mobilization of the funds, the accused got to be released on bail. Further, it is seen that all the accused in this case have to pay a total fine amount of Rs.18,90,000/- in total, out of which, each accused has to pay a sum of Rs.3,15,000/- as per the apportionment. The petitioner undertakes to pay the said apportionment fine amount of Rs.3,15,000/- the time of execution of sureties.

7.There are arguable points involved in the appeal. Further the appeal is not likely to be taken up for final hearing in the near future. Therefore, this COURT is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8.Accordingly, the substantive sentence of imprisonment alone is suspended and the third petitioner/Accused 4/Appellant, alone is directed to be enlarged on bail on the following conditions:-

(i) the third petitioner/A4 shall execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court under TNPID, Act, Coimbatore, within a period of 15 days from the date of receipt of a copy of this order.

(ii) the third petitioner/A4 shall appear before the said Court on the first working day of English Calender of every month at 10.30 a.m., till the disposal of Criminal Appeal.

(iii) While executing the sureties, the sum of Rs.3,15,000/- (Rupees Three Lakhs Fifteen thousand only) is directed to be deposited to the credit of C.C.No.17 of 2014 before the Special Court under TNPID, Act, Coimbatore.

9. With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-

08/06/2021

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 UNDER TNPID ACT, COIMBATORE

2 THE OFFICER INCHARGE,
SUB JAIL, UDUMALPET

3 INSPECTOR OF POLICE,
ECONOMIC OFFENCES WING-II,
COIMBATORE.

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4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.B.MOHAN Advocate on payment of necessary charges

Order

in
CRL MP.5102/2021

in
Crl.A.No.167 of 2021

Date :08/06/2021

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

RVR 15/06/2021



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