



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Monday, the Fourth day of January Two Thousand Twenty One

WEB COPY

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION No.8820 of 2020
IN CRL A.537/2020

B.ARACHALAKUMAR @ KUMAR

[PETITIONER / APPELLANT]

Vs

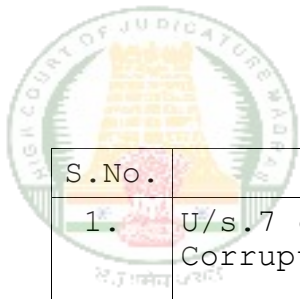
STATE OF TAMIL NADU REP.BY [RESPONDENT / COMPLAINANT]
THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION WING,
ERODE V & AC,
CRIME NO.5/AC/2013/ER,
ERODE DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.537/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgment dated 15.12.2020 made in Special C.C.No.44 of 2015 on the file of the learned Chief Judicial Magistrate / Special Judge for Vigilance and Anti-Corruption Cases, Erode and enlarge the petitioner on bail, pending disposal of the above CRL A.537/2020 [IN CRL.MP.NO.8820 OF 2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.537/2020 on the file of the High Court and upon hearing the arguments of M/S. N.MANOCHARAN, Advocate for the petitioner and of MR.C.IYYAPPARAJ, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The Criminal Miscellaneous Petition has been filed by the Appellant/Accused, to suspend the sentence of imprisonment imposed in the judgment dated 15.12.2020 made in Special C.C.No.44/2015, on the file of the learned Chief Judicial Magistrate/Special Judge for Vigilance and Anti-Corruption Cases, Erode, pending disposal of the appeal.

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



S.No.	Conviction	Sentence
1.	U/s.7 of the Prevention of Corruption Act	One year Rigorous Imprisonment and fine of Rs.5,000/- in default to undergo Simple Imprisonment for One Month.
2.	U/s. 13(2) r/w 13(1) (d) of the Prevention of Corruption Act	One year Rigorous Imprisonment and fine of Rs.5,000/- in default to undergo Simple Imprisonment for One Month.

The sentences are ordered to run concurrently. Aggrieved against the same, the petitioner has preferred this appeal. Pending appeal, the petitioner has filed the present miscellaneous petition seeking suspension of sentence.

3. The case of the prosecution is that the Appellant/Accused was working as a Village Administrative Officer, Nallampatti Village, Erode District. On 13.09.2013, the complainant/P.W.2 had approached the Appellant/Accused for transfer of patta in his name for which, the Appellant/Accused had demanded an amount of Rs.3,000/- from him. Thereafter, on 24.09.2013, the Complainant/P.W.2 had agreed to pay an amount of Rs.2,900/- to the Appellant/Accused and that the Appellant/Accused had accepted the same as illegal gratification and thereby, the Appellant/Accused committed the above said offences and he was tried and convicted as stated above.

4. The learned counsel appearing for the Appellant/Accused would submit that the prosecution has miserably failed to prove the twin ingredients viz., demand and acceptance to sustain the charges against the Appellant/Accused. He would further submit that the evidence of P.W.2 cannot be relied since, he has failed to satisfy the material aspect with regard to demand. Further, the evidence of P.W.2 is self contradictory and it has not been supported by the evidence of P.Ws.3 and 4. He would further submit that P.W.2 had applied for mutation entries under Ex.P3 Form on the basis of the disputed Will Ex.P2 executed by his grand mother but the fact remains that Ex.P3 was blank. However, without considering the aspects, the Trial Court had convicted the Appellant/Accused. He would further submit that apart from the above grounds, the Appellant/Accused has also made out prima facie grounds for acquittal. He further submitted that the Lower Court had suspended the sentence till 14.01.2020 and would pray that it substantive sentence imposed against the petitioner may be suspended and would also submit that the fine amount has already been paid.



5. The learned Additional Public Prosecutor has raised objections for suspending the sentence stating that the trial court has rightly convicted the petitioner appreciating the evidences adduced by the prosecution witnesses and also the exhibits. He would further submit that the prosecution has proved the demand of bribe amount on the date of occurrence and hence, the petitioner has not made any case for acquittal. He would further submit that the imprisonment is for one year and the lower court has suspended the sentence till 14.01.2020 and considering the sentence of imprisonment for one year, he has no serious objection to grant order of suspension of sentence.

6. Taking into consideration the facts and circumstances, and perusing the impugned judgment and the materials on record, this Court is of the view that the Appellant/Accused has made out arguable points in the appeal and they have to be examined in detail in the main criminal appeal and it will take some time for disposal of the criminal appeal.

7. In view of the above, the substantive sentence of imprisonment alone is suspended.

8. Hence, the sentences of imprisonment imposed on the Appellant/Accused by the trial Court alone is hereby suspended till the disposal of the appeal and the Appellant/Accused is ordered to be enlarged on bail on his executing a bond for Rs.50,000/- [Rupees Fifty thousand only] with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge for Vigilance and Anti-Corruption Cases, Erode and on further condition that 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.

-sd/-
04/01/2021

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 CHIEF JUDICIAL MAGISTRATE/
SPECIAL JUDGE FOR VIGILANCE AND ANTI-CORRUPTION CASES,
ERODE.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION WING,
ERODE V AND AC,
ERODE DISTRICT.

C.C. to M/S.N.MANOCHARAN Advocate on payment of necessary
charges

Order

in
CRL MP.8820/2020

in
CRL A.537/2020

Date :04/01/2021

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

MK:05/01/2021