



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Thirtieth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2745 of 2021
in
CRL A(MD)No.169 of 2021

NALLASIVAM

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ECONOMIC OFFENCE WING-II,
KARUR.
CRIME NO.1 OF 2014

... RESPONDENT/RESPONDENT

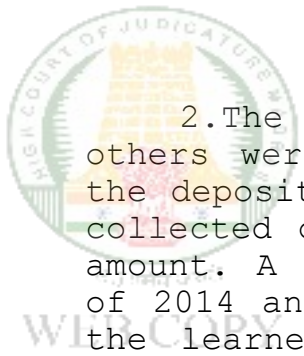
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner/Appellant vide judgment dated 09/03/2021 made in C.C.No.5 of 2015 on the file of the Special Court Under the Tamil Nadu Protection of Interest of Depositors(In Financial Establishment) Act, 1997, Madurai and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.

PRAYER IN CRL A(MD)No.169 of 2021:

Pleased to call for records and set aside the judgment and conviction imposed by the Special Court under the Tamil Nadu Protection of Interest of Depositors (in financial establishment) Act, 1997, Madurai dated 09.03.2021 made in C.C.No.5 of 2015 against the appellant herein and allow the appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.D.S.HAROON RASHEED, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Special Judge, Special Court under TNPID Act Cases, Madurai, in C.C.No.5 of 2015 dated 09.03.2021, till the disposal of the appeal.



2.The case against the petitioner is that the petitioner and others were conducting financial establishments and they promised the depositors that they would pay 12 % interest per annum and they collected deposits from the public. Later they failed to repay the amount. A case was registered against the petitioner in Crime No.1 of 2014 and the same was taken on file as C.C.No.5 of 2015 before the learned Special Judge, Special Court under TNPID Act Cases, Madurai. The learned Judge found the petitioner guilty under Sections 406 and 420 of IPC and Section 5 of TNPID Act. He was sentenced to undergo one year rigorous imprisonment under Section 406 of IPC. He was sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo six months simple imprisonment under Section 5 of TNPID Act. He was sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only), in default, to undergo six months simple imprisonment under Section 420 of IPC. Against the said conviction and sentence imposed upon the petitioner, the petitioner has preferred an appeal before this Court in Crl.A.(MD)No.169 of 2021. Along with the appeal, he has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner is A2 in the case. There were 18 depositors and total amount to be paid is Rs.37,00,000/-. The property of the petitioner was seized by the respondent police. The petitioner has filed a petition in Cr.M.P.No.3594 of 2017 under Section 311 of Cr.P.C. That petition was allowed on payment of costs. The petitioner paid costs for three of the witnesses. Without giving an opportunity for the petitioner to cross examine the witnesses, the trial Court convicted the petitioner and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that the petitioner has not filed any document to show that he has taken steps under Section 311 of Cr.P.C. Even as per the version of the petitioner, he has deposited cost only for three witnesses and not for others. It is the petitioner who has chosen not to cross examine the witnesses. The judgment reveals that the petitioner has put forth his arguments before the trial Court. If the petitioner is granted suspension of sentence, there is possibility for the petitioner to escape the clutches of law. So far the deposit amount is not settled. The prosecution has examined 27 witnesses and marked 42 documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody from 20.12.2020 onwards I.e. for the past three months and the allegation against the petitioner is serious in nature. However, keeping the petitioner in custody will not serve any purpose. Hence, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence on conditions.



6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:

(i) The petitioner is directed to deposit a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of Crime No.1 of 2014 before the learned Special Judge, Special Court for TNPID Act Cases, Madurai, within a period of two weeks from the date of receipt of copy of this order.

(ii) The petitioner is directed to execute a bond for a sum of Rs.10,00,000/- (Rupees ten lakhs only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Special Judge, Special Court under TNPID Act Cases, Madurai.

(iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Special Judge, Special Court under TNPID Act Cases, Madurai, may obtain a copy of their valid identity card to ensure their identity.

(iv) The petitioner shall appear before the respondent police daily at 10.30 a.m., until further orders.

(v) If the aforesaid conditions are violated, this order automatically stands cancelled.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

sd/-
30/03/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

<https://hcservices.ecourts.gov.in/hcservices/>



TO

1. THE SPECIAL JUDGE,
SPECIAL COURT UNDER TNPID ACT CASES, MADURAI.

2. THE INSPECTOR OF POLICE
ECONOMIC OFFENCE WING-II,
KARUR.

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP (MD) No.2745 of 2021

in

CRL A (MD) No.169 of 2021

Date : 30/03/2021

MRN

TK/PN/SAR.2/30.03.2021/4P/5C