



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

Thursday, the Twenty Eighth day of October Two Thousand and Twenty
One
PRESENT

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The Hon`ble Mr.Justice R.PONGIAPPAN

CRL.M.P. (MD)No.6642 of 2021
in
CRL.A. (MD)No.370 of 2021

1 KARUPPAIAH
2 UPPILI
3 SAKTHIVEL
4 MURUGAN
5 MARUTHAPPAN

... PETITIONERS/ APPELLANTS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KALLIKUDI POLICE STATION, MADURAI DISTRICT.
CRIME NO.18 OF 2015.

... 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 in Spl.SC.No.132 of 2021 dt.23.8.2021 on the file of the Learned Sessions Judge, Special Court for MMDR Act, Madurai till the disposal of the Appeal.

Prayer in CRL.A. (MD)No.370 of 2021:

To call for the records relating to the judgment passed in Spl.SC.No.132/2021 dated 23.08.2021 on the file of the Special Court to deal with the cases of offences in contravention of the provisions of the Mines and Minerals (D&R) Act, 1957, Madurai and set aside the same and acquit the appellants/accused No.1 to 4 & 6 from the charge leveled against them.

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.R.GOWRISHANKAR, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Counsel for Government of Tamil Nadu (Crl.Side) on behalf of the respondent, While admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioners by judgment dated 23.08.2021 passed in Spl. C.C.No.132 of 2021, on the file of the learned Sessions Judge, Special Court for MMDR Act, Madurai and to enlarge the petitioners, on bail pending disposal of the appeal.



2.The petitioners are arrayed as A1 to A4 and A6 in the above referred case. After full-fledged trial, the learned trial Judge came to the conclusion that the petitioner was found guilty, convicted and sentenced them as detailed below:-

S.No.	Accused Name/Rank	Convicted under Section	Sentence of imprisonment/fine imposed
01.	Karuppaiah/A1	379 IPC	Rigorous Imprisonment for 3 years and imposed a fine of Rs.20,000/-, in default to undergo 6 months RI,
02.	Uppili/A2	379 IPC	Rigorous Imprisonment for 2 years and imposed a fine of Rs.5,000/-, in default to undergo 3 months RI.
03.	Sakthivel/A3	379 IPC	Rigorous Imprisonment for 2 years and imposed a fine of Rs.5,000/-, in default to undergo 3 months RI.
04.	Murugan/A4	379 IPC	Rigorous Imprisonment for 2 years and imposed a fine of Rs.5,000/-, in default to undergo 3 months RI.
05.	Maruthappan/A6	379 IPC	Rigorous Imprisonment for 2 years and imposed a fine of Rs.5,000/-, in default to undergo 3 months RI.

3.Challenging the above said conviction and sentence, the petitioners have filed CrI.A(MD) No.370 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.Heard Mr.R.Gowrishankar, learned counsel for the petitioners and Mr.M.Muthumanikkan, learned Counsel for Government of Tamil Nadu (Criminal Side) appearing for the respondent/State.

5.It is submitted by the learned counsel for the petitioners that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. The learned counsel for the petitioners further submitted that suspension of sentence has already been granted by the trial court for the period of 30 days from the date of the judgment.

6.It is submitted by the learned Counsel for Government of Tamil Nadu (Criminal Side) appearing for the respondent/State that there are enough materials available on record against the petitioners as per the evidence adduced by the prosecution and there



is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

7.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8.The learned counsel for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioners herein is entitled to the relief of grant of suspension of sentence, till the disposal of the appeal.

9.Accordingly, the relief of suspension of sentence and bail is granted to the petitioners on the following conditions:-

(i) The petitioners, each shall execute a bond for a sum of Rs.25,000/- with two sureties , of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Special Court for MMDR Act, Madurai;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders and if they are is not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

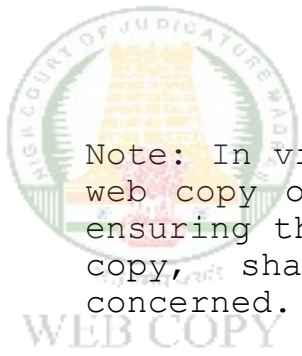
sd/-

28/10/2021

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/ /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.

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR MMDR ACT, MADURAI

2 THE INSPECTOR OF POLICE
KALLIKUDI POLICE STATION, MADURAI DISTRICT.

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

+1 CC to Mr.R.GOWRISHANKAR, Advocate (SR-7583[I] dated 28/10/2021)

ORDER
IN
CRL.M.P. (MD) No.6642 of 2021
in
CRL.A. (MD) No.370 of 2021
Date :28/10/2021

ER
MK/JM/SAR.III/28.10.2021/4P/5C