



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

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

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.8247 of 2021
in
CRL.A(MD)No.421 of 2021

ARUNKUMAR ... PETITIONER/ APPELLANT / ACCUSED No.1

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KADUPATTI POLICE STATION, MADURAI DISTRICT.
(CRIME NO.227 OF 2017) ... RESPONDENT/ RESPONDENT/ COMPLAINANT

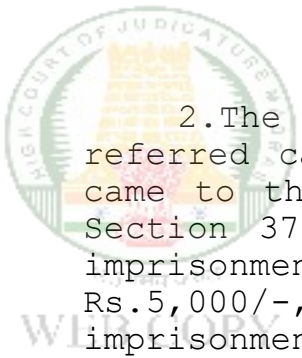
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge petitioner on bail by suspending the sentence imposed by Special court to deal with the cases of offences in contravention of the provisions of the mines and minerals (D and R) Act, Madurai in Special CC No.199/2021 vide his judgment dated 23.09.2021.

Prayer in CRL.A(MD)No.421 of 2021:

To call for the records pertaining to the judgment rendered by the Special court to deal with the cases of offences in contravention of the provisions of the mines and minerals (D and R) Act, Madurai in Special CC No.199/2021 vide his judgment dated 23.09.2021 by convicting the Appellant under section 379 of I.P.C sentenced him to undergo 1 Year R.I and to pay a fine of Rs.5,000/- and in default undergo 3 months R.I and set aside the same and consequently acquit the appellant.

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.M.PITCHAI MUTHU, 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 petitioner by judgment dated 23.09.2021 passed in Spl.C.C.No.199 of 2021, on the file of the Special Court to deal with cases of offences in contravention of the provisions of the mines and minerals (D and R) Act, Madurai and to



2.The petitioner is arrayed as first accused in the above referred case. After full-fledged trial, the learned trial Judge came to the conclusion that the petitioner was found guilty under Section 379 of IPC, convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default, to undergo three months rigorous imprisonment.

3.Challenging the above said conviction and sentence, the petitioner has filed Crl.A(MD) No.421 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.Heard Mr.M.Pitchai Muthu, learned counsel for the petitioner and Mr.M.Muthumanikkam, Government Advocate (Crl.side) appearing for the respondent/State.

5.It is submitted by the learned counsel for the petitioner 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 petitioner 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 Government Advocate (crl.side) that there are enough materials available on record against the petitioner 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 petitioner 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 petitioner herein is entitled to the relief of grant of suspension of sentence.

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

- (i) The petitioner 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 Special Court to deal with cases of offences in contravention of the provisions of the mines and minerals (D &



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(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 petitioner shall appear before the respondent police everyday at 10.30 a.m for the period of four weeks and thereafter, the petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders and if he is not able to appear before the trial Court on any day, he 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 his absence, as directed by the trial Court.

sd/-

07/10/2021

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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 SPECIAL COURT TO DEAL WITH THE CASES OF OFFENCES IN CONTRAVENTION OF THE PROVISIONS OF THE MINES AND MINERALS (D&R) ACT, MADURAI.
- 2 THE INSPECTOR OF POLICE
KADUPATTI POLICE STATION, MADURAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.8247 of 2021
in

CRL.A(MD)No.421 of 2021

Date :07/10/2021