



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

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

WEB COPY

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.8926 of 2021
IN
CRL A(MD)No.446 of 2021

V.ESWAR @ VENKATESH

... PETITIONER/APPELLANT/9th ACCUSED

Vs

THE STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
C.B.I./E.O.W. CHENNAI,
RC11(E)2010/C.B.I./E.O.W./CHENNAI.

... 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 suspend the substantial sentence of imprisonment imposed in C.C No.8 of 2011 by the Learned II Additional District Judge for CBI Cases, Madurai on 27/09/2021 and enlarge the petitioner on bail pending disposal of Criminal Appeal so that justice may be done.

PRAYER IN CRL A(MD)No.446 of 2021:

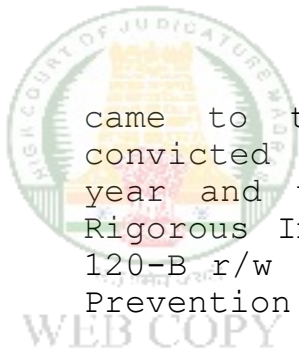
To allow the appeal and to set aside conviction and sentence passed by the Learned II Additional District Judge for CBI Cases at Madurai in C.C.No.8 of 2011 on 27.09.2021.

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.U.MANOVAR, Advocate for the petitioner and of M/S.L.VICTORIA GOWRI, Assistant Solicitor General 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 27.09.2021 passed in C.C.No.8 of 2011, on the file of the II Additional District Judge (CBI Cases), Madurai and to enlarge the petitioner, on bail pending disposal of the appeal.

2.The petitioner is arrayed as an accused No.9 in the above referred case. After full-fledged trial, the learned trial Judge

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came to the conclusion that the petitioner was found guilty, convicted and sentenced to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.2,00,000/-, in default to undergo Rigorous Imprisonment for 6 months for the offences under Sections 120-B r/w 420 and 471 r/w 468 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

3.Challenging the above said conviction and sentence, the petitioner has filed CrI.A(MD) No.446 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.Heard Mr.U.Manogar, learned counsel for the petitioner and Mrs.L.Victoria Gowri, learned Assistant Solicitor General 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 Assistant Solicitor General that there are enough materials available on record against the petitioner, as per the evidence adduced by the prosecution, there is no infirmity in the prosecution case. Accordingly, she 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.

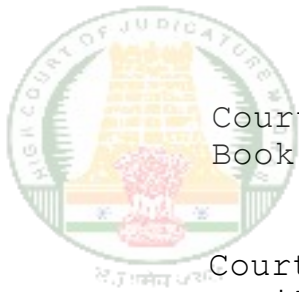
8.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be 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 II Additional District Judge (CBI Cases), Madurai.

(ii) The sureties shall affix their photographs and

<https://hcservices.eco.in/hcservices> 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 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/-

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 II ADDITIONAL DISTRICT JUDGE (CBI CASES)
MADURAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
C.B.I./E.O.W. CHENNAI,
RC11(E)2010/C.B.I./E.O.W./CHENNAI.

3 THE SPECIAL PUBLIC PROSECUTOR,
CBI CASES
MADURAI.

+1. C.C. to Mr.U.MANOGAR, Advocate SR.No.7566

ORDER

IN

CRL MP(MD) No.8926 of 2021
IN

CRL A(MD)No.446 of 2021
Date :28/10/2021

SA/SKN/SAR.3/28.10.2021/3P/5C