



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

Thursday, the Twenty Third day of December Two Thousand and
Twenty One

WEB COPY

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P. (MD) No.11756 of 2021
in
Crl.A. (MD) No.538 of 2021

SENTHIL

... PETITIONER/APPELLANT

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION,
MADURAI DISTRICT
(CRIME NO. 275 OF 2017)

... 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 vide judgment dated 29.11.2021 made in Special Calendar Case No. 1 of 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 pending disposal of the above Criminal Appeal.

Prayer in Crl.A. (MD) No.538 of 2021:

To call for the records relating to judgment of conviction dated 29.11.2021 in Special Calendar Case No.1 of 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 allow this Criminal Appeal by acquitting 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.ANTONY ARULRAJ.T., Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate 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 against the petitioner in Spl.C.C.No.1 of 2021, on the file of the Special Court to Deal with the cases of offences in Contravention of the Provisions of Mines and Minerals Act (D & R) Act, Madurai, dated



29.11.2021 and to enlarge the petitioner on bail till the disposal of the Appeal.

2.The case against the petitioner is that on 24.05.2017, the petitioner was found transporting sand, without any permit. A case in Crime No. 275 of 2017, under Sections 379 I.P.C., was registered against the petitioner and the case was taken on file as Spl.C.C.No.1 of 2021, by the Special Court to Deal with the cases of offences in Contravention of the Provisions of Mines and Minerals Act (D & R) Act, Madurai,. The Special Court has found the petitioner guilty under 379 of I.P.C., and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo a further period of six months rigorous imprisonment. Against the conviction and sentence, the petitioner filed an Appeal in CrI.A.(MD)No.538 of 2021. Along with the appeal, he has filed the present application for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that the complainant is a Village Administrative Officer. The petitioner is the owner of the vehicle. The vehicle and cell phone were marked as M.O.1 and M.O.2. The cell phone does not belong to the petitioner. It is admitted by the I.O that the cell phone did not belong to the petitioner and the cell phone belong to one Pasupathy. But, the said Pasupathy was not impleaded as an accused. Only because the petitioner is the owner of the vehicle, he was falsely implicated in the case and there are much more points for consideration in the main Appeal and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the offence is sand theft. The driver of the vehicle run away and left the vehicle and left his cell phone. The petitioner is the owner of the vehicle. The prosecution has examined 5 witnesses and marked 5 documents and 2 material objects. The prosecution has proved the case beyond all reasonable doubts and the offence is against the Society and prayed the petition to be dismissed.

5.On the side of the petitioner, it is stated that the petitioner was enjoying the bail through out the trial and the sentence was suspended by the trial Court till 28.12.2021

6. It is seen that the petitioner was enjoying the bail through out the trial and the sentence imposed by the trial Court was suspended till 28.12.2021. It is seen that there are some arguable points for consideration in the appeal and the Criminal Appeal is not likely to be taken up for final hearing in the near future. Hence, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioners ordered to be released on bail on the following conditions:



(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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 the cases of offences in Contravention of the Provisions of Mines and Minerals Act (D & R) Act, Madurai,

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal or until further orders.

sd/-
23/12/2021

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

TO

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

ORDER
IN
Crl.M.P. (MD) No.11756 of 2021
in
Crl.A. (MD) No.538 of 2021
Date :23/12/2021

VB/PN/SAR-I/27.12.2021/3P/4C