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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.199 of 2022

in

Crl.A.No.12 of 2022

S.P.Muthuvel

...Petitioner

Vs.

The Inspector of Police,
Economic Offences Wing-II (EOW-II)
Coimbatore
(Crime No.1 of 2015)

... Respondent

PRAYER: Criminal Miscellaneous Petitions filed under Section 389(1) Cr.P.C to suspend the sentence of imprisonment imposed in the judgement dated 28.12.2021 made in C.C.No.1 of 2015 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

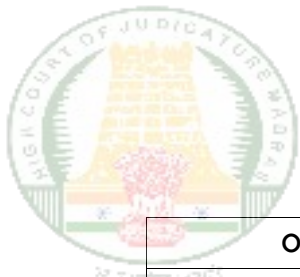
For Petitioner : Mr.K.S.Karthik Raja

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

O R D E R

This Criminal Miscellaneous Petition has been preferred by the petitioner/accused 3, seeking to suspend the sentence imposed upon him, by the judgment dated 28.12.2021 passed in C.C.No.1 of 2016 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore, and to enlarge him on bail, pending disposal of the appeal.

2. The petitioner, who is the accused No.3 in C.C.No.1 of 2016 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore, was convicted for the offences under Section 420 of IPC and Section 5 of TNPID Act, 1997 and sentenced as follows:-



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Offences	Sentence
Section 420 of IPC	Rigorous Imprisonment for 7 years along with fine of Rs.2,00,000/-, in default, to undergo further Rigorous Imprisonment for one and half years
Section 5 of TNPID Act	Rigorous Imprisonment for 7 years along with fine of Rs.2,00,000/-, in default, to undergo further Rigorous Imprisonment for two years
The aforesaid sentences were ordered to run concurrently.	

Challenging the above conviction and sentence, the petitioner/A3 filed Criminal Appeal in CrI.A.No.12 of 2022 along with this Miscellaneous Petition, seeking suspension of sentence and bail.

3. Heard Mr.K.S.Karthik Raja, learned counsel for the petitioner/A-3 and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (CrI. Side) appearing for the respondent/Police.

4. The case of the prosecution is that the petitioner and 4 others were running a registered financial establishment in the name of Kubera Auto Finance (A-1) and collected deposits from the public during the period between 2008 to 2010 and paid interest promptly. During the relevant point of time, the petitioner herein had signed and issued deposit receipts to the depositors and failed to return the deposit amount of Rs.12,66,000/- to 20 depositors. Therefore, the petitioner and other accused are liable to be convicted under Section 420 of IPC and Section 5 of TNPID Act 1997.

5. The learned counsel for the petitioner would submit that while at the time of delivering the judgment, the trial Court after considering the liability of each of partners and directed them to deposit Rs.5,33,333.33 along with sentence. Further, it was directed that the fine amount collected has to be disbursed to the each of the depositors. In this connection, the petitioner herein has deposited the entire fine amount viz., Rs.5,33,333.33. He further submitted that the petitioner is in prison from 28.12.2021 onwards, and hence he prayed for suspension of sentence.

6. The learned Government Advocate (Criminal Side) appearing for the respondent/Police fairly admits that the entire fine amount has been deposited by the present petitioner.

7. Submissions made by the learned counsel appearing on either side are considered.



8. Considering the above facts, especially, on considering the fact that the petitioner has deposited the entire fine amount as above stated and also the appeal is not likely to be taken up in the near future, this Court is of the view that the petitioner/A-3 is entitled to the relief of suspension of sentence and bail.

9. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioner on the following conditions:

(a) Since the petitioner has already deposited the entire find amount namely Rs.5,33,334/- before the Special Court under TNPID Act, Coimbatore, the said Court shall redeposit the said amount in a fixed deposit account in any nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the criminal appeal. Thereafter, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Special Judge, Special Court under TNPID Act, Coimbatore;

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

(c) 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 and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 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.

10. With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-

04/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



TO

1 THE SPECIAL JUDGE,
SPECIAL COURT UNDER TNPID ACT,
COIMBATORE.

2 THE OFFICER INCHARGE,
SUB JAIL, AVINASHI.

3 THE INSPECTOR OF POLICE
ECONOMIC OFFENCES WING -II (EOW II),
COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1 C.C. to K.S.KARTHIK RAJA Advocate on payment of necessary
charges SR.NO. 5046

Order

in
CRL MP.199/2022

in
CRL A.12/2022

Date :04/04/2022

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RW 05/04/2022