



Crl.M.P.No.8055 of 2022
in Crl.A.No.607 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.M.P.No.8055 of 2022
in Crl.A.No.607 of 2022

V.Venkatesan

... Petitioner/Appellant

Vs.

The State of Tamil Nadu represented by
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Erode V & AC,
Crime No.08/AC/2005/ER

... Respondent/Respondent

PRAYER: This Criminal Miscellaneous Petition has been filed under Section 389(1) of Cr.P.C, to suspend the sentence and conviction imposed against the petitioner by judgment dated 08.06.2022 in Spl.C.C.No.4 of 2015 passed by the learned Chief Judicial Magistrate, Erode, Erode District and enlarge the petitioner on bail till the disposal of the above Criminal Appeal.

For Petitioner : Mr.V.R.Appaswamee

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

This Criminal Miscellaneous Petition has been filed seeking suspension of the sentence and conviction imposed against the petitioner in Spl.C.C.No.4 of 2015 by the learned Chief Judicial Magistrate, Erode, Erode District, dated 08.06.2022 and enlarge the petitioner on bail till the disposal of the above Criminal Appeal.

2.The petitioner, who was arrayed as first accused in Spl.C.C.No. 04 of 2015, before the learned Chief Judicial Magistrate, Erode, was convicted for the offence under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act and was sentenced as follows:

(i).For the offence under Section 7 of Prevention of Corruption Act, the petitioner/A1 was sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of one month.

(ii).For the offence under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, the petitioner/A1 was sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of one month.



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Challenging the said order of conviction, the first accused has preferred this appeal and pending appeal, he seeks suspension of sentence.

3.The learned counsel for the petitioner would contend that there is a discrepancy in the evidence of PW5 with PW13/Scientific Officer regarding the chemical strain and no independent witnesses have been examined to prove the trap and the provisions of the Manuals was not followed and not recorded the procedure contemplated under the Vigilance Manuals was not followed and hence, seeks for suspension of sentence.

4.The respondent police have raised certain objections.

5.Based upon the objections raised by the respondent police, the learned Government Advocate (Crl.Side) would contend that all the points raised by the learned counsel for the petitioner/first accused has been properly dealt with by the Trial Court and the Trial Court has also given categorical finding that the tainted money was recovered from the second accused and the reasoning given by the learned Judge at



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Paragraph No.71 has been properly considered. Further, the demand and acceptance has been proved by the necessary prosecution witnesses viz., PW3 & PW4 and the reason assigned by the Trial Court for believing the evidence of PW3 also trap proceedings.

6.Considering the finding rendered by the learned Special Judge regarding the materials of the trap proceedings and specific finding rendering demand and acceptance and in the absence of any positive explanation for the amount received from the PW3, the Trial Court has rightly laid the conviction and hence, I am not inclined to grant the bail and suspension of sentence to the petitioner/first accused for the present.

7.Accordingly, this Criminal Miscellaneous Petition is dismissed for the present, however, a liberty is given to the appellant/first accused to move his bail after passage of some time or on change of circumstances.

05.07.2022

Internet : Yes
Dua

To



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1. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Erode V & AC.
2. The Chief Judicial Magistrate,
Erode, Erode District.
3. The Public Prosecutor,
High Court, Madras.

RMT.TEEKAA RAMAN, J.



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