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Crl.M.P.No.10290 of 2022 in Crl.A.No.348 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.10290 of 2022

in

Crl.A.No.348 of 2021

1.M/s.Abi Emu Farms(A1),
Vasantham Nagar,
Erode Privu Road,
Sankagiri, Salem District.

2.M/s.Abi Emu and Agro Farms India Private Ltd.,
S.F.No.235, Kidaiyur Mettur,
Devanagoundanoor Post,
Sankari Taluk,
Salem District.

3.R.Raja

4.R.Sasikala

5.C.Ranjithkumar

... Petitioners

Versus

State represented by
The Deputy Superintendent of Police,
Economic Offences Wing – II Unit,
Salem.
(C.C.No.14 of 2012)

... Respondent



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Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the conviction and sentence imposed on the petitioners in C.C.No.14 of 2013 dated 14.12.2020 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore pending disposal of the above Criminal Appeal.

For Petitioners : Mr.C.Prakasam

For Respondent : S.VinothKumar
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition is filed to suspend the conviction and sentence imposed on the petitioners, in C.C.No.14 of 2013, dated 14.12.2020, on the file of the Special Judge, Special Court under TNPID Act, Coimbatore, pending disposal of the above Criminal Appeal.

2. The learned counsel for the petitioners prays for suspension of sentence including payment of fine amount.

3. When this Court queried about the payment of the part amount of fine, the learned counsel for the petitioners took time and on instructions



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submitted that there is a sum of Rs.67,928/- which is lying to the credit of the competent authority in this case. This apart, five properties worth Rs.48,54,990/- is attached by the competent authority and the petitioners/accused will also deposit a sum of Rs.80,000/- within a period of four months from today i.e. on or before 25.11.2022 on enlargement of bail and the learned counsel also submitted that the petitioners are ready to file an affidavit stating no objection for selling the above properties as well as the disbursement of the amount to be realised by way of sale and also the amount to be deposited by them.

4.Per contra, the learned Government Advocate (Crl.Side) submitted that the total amount involved in this case is Rs.5,00,00,000/- (approximately) and only Rs.67,928/- is available in the account so far and therefore, he would pray that appropriate conditions may be imposed on the petitioners/accused so that the amount would be realised in this case.

5.I have considered the rival submissions made on either sides and perused the material records in this case.



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6.I am of the view that considering the submissions made by the learned counsel for the petitioners/accused that the accused are ready to file an affidavit and ready to deposit portion of the amount, it is a fit case for grant of suspension of sentence pending the above appeal. Therefore, I am inclined to suspend the sentence and grant bail to the petitioners on the following conditions:-

(a) the petitioners are ordered to be released on bail, on they executing a bond for a sum of Rs.25,000/- each (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Trial Court;

(b) The petitioners shall also file an affidavit undertaking to deposit a sum of Rs.80,00,000/- on or before 25.11.2022 before the competent authority in this case;

(c) and that the affidavits will also expressly state that the accused have no objection for the competent authority to disburse the said amount of Rs.80,00,000/- to be deposited and the amount of Rs.67,928/- which is available and for selling the properties attached and distributing the



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amount realised without any further formal application to the Trial Court under Section 4 (5) of the TNPID Act;

(d) Upon such filing of the affidavits, the competent authority will be entitled to sell all the properties which are attached and realise the amount expeditiously, by immediately advertising the properties for sale by way of public auction and realise the amount and after realising the amount and also on deposit of the sum of Rs.80,00,000/- by the accused, the entire amount available can be distributed to the victims on pro-rata basis without any further applications under Sections 4 (5) of TNPID Act before the Trial Court;

(e) It is made clear that no further time extension will be granted in this matter for deposit of the sum of Rs.80,00,000/- and if the petitioners fail to deposit Rs.80,00,000/- on or before the said date (25.11.2022) as directed by this Court, the suspension of sentence ordered by this Court shall stand automatically vacated without any further reference to this Court. The respondent police shall keep track of the date and if the petitioners fail to deposit the amount within the time limit, they shall file a



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memo before the Trial Court, obtain warrant and ensure that the petitioners serve their sentence;

(f) the petitioners and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(g) the petitioners 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 Criminal Revision 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.

7. This Criminal Miscellaneous Petition is ordered accordingly.

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Index : yes/no
Speaking order/Non-speaking order
sli



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To

- 1.The Special Judge, Special Court under TNPID Act, Coimbatore.
- 2.The Public Prosecutor, High Court of Madras.
- 3.The Superintendent of Police, Central Prison, Coimbatore.
- 4.The Deputy Superintendent of Police,
Economic Offences Wing – II Unit,
Salem.



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D.BHARATHA CHAKRAVARTHY. J.,

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