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Crl.M.P.No.11010 of 2022 in Crl.A.No.216 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2022

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.M.P.No.11010 of 2022 in
Crl.A.No.216 of 2021

N.Sekar

... Petitioner

Vs.

The State rep. by
The Inspector of Police
Economic Offences Wing-II,
Villupuram
Villupuram District
(Crime No.07 of 2003)

... Respondent

PRAYER : Criminal Miscellaneous Petition filed under Section 389(1) read with 439 of Cr.P.C., seeking to suspend the sentences imprisonment alone for a period of 12 weeks imposed on the petitioner/appellant/accused NO.02 herein in C.C.No.01 of 2010 on the file of the learned Special Judge under T.N.P.I.D (in F.E.) Act, 1997, Chennai, by Judgement dated 22.01.2021 and enlarge the petitioner/appellant/accused No.02 on bail pending the above Crl. Appeal No.216 of 2021 on the file of this Court.

For Petitioner : Mr.G.Saravanan
For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

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This Criminal Miscellaneous Petition has been filed seeking to suspend the sentences of imprisonment alone for a period of 12 weeks imposed on the petitioner/appellant/accused No.02 herein in C.C.No.01 of 2010 on the file of the learned Special Judge under T.N.P.I.D (in F.E.) Act, 1997, Chennai, by Judgement dated 22.01.2021 and enlarge the petitioner on bail pending the above Criminal Appeal.

2. The petitioner is the accused and the respondent is the complainant. On conclusion of trial, the learned the learned Special Judge under T.N.P.I.D (in F.E.) Act, 1997, Chennai, found the petitioner guilty for the offence under Section 5 of TNPID (In F.E.) Act, 1997 (28 counts), and convicted and sentenced as under;

S.No.	Conviction	Sentence
1	5 of TNPID (In Financial Establishment) Act, 1997 (28 counts)	7 years Simple Imprisonment for each Count and to pay fine of Rs.2,000/- for each count in default to undergo simple imprisonment for a period of six months for each default.



3. Challenging the said Judgment of conviction and sentence, the petitioner has preferred the above appeal in Crl.A.No.216 of 2021 before this Court and pending appeal, the petitioner also filed a petition in Crl.M.P.No.6065 of 2021 for suspension of sentences of imprisonment. During pendency of the appeal and the petition for suspension of sentence, the petitioner has preferred the present Criminal Miscellaneous Peition seeking interim suspension of sentence of imprisonment, imposed by the Court below as stated above, on the ground of taking treatment.

4. The case of the prosecution is the accused persons on the promise of giving high rate of interest collected amounts from the victims and thereafter, defaulted in repayment of interest as well as principal.

5. On earlier occasion, this Court had directed the Government Advocate (Crl. Side) to file affidavit detailing the nature of ailments, nature of treatment given to the petitioner/accused and the condition of the accused along with supporting documents. Accordingly, the Inspector of Police has filed an affidavit wherein it is admitted that the petitioner is



suffering with ailments and taking treatment in the prison Hospital and also taking treatment regularly in the Stanley Hospital with the permission of the Prison authority. Further it is also stated that the Prison authority has extended all the necessary assistance to the petitioner to take treatment in the prison hospital as well as outside namely Stanley Hospital as and when required and therefore, there is no need to take separate treatment outside.

6. The learned Additional Public Prosecutor appearing for the respondent police would submit that there is no need to suspend the sentences. However, if the Court feels at the best, may suspend the sentence for a period of four weeks.

7. Heard both sides and perused the materials available on records.

8. Admittedly, the petitioner has been convicted for the offence under Section 5 of TNPID (In F.E.) Act, 1997 (28 counts) in C.C.No.01 of 2010 on the file of the learned Special Judge under T.N.P.I.D (in F.E.) Act, 1997, Chennai. The records and the affidavit of the Inspector of Police, shows that



the petitioner is taking treatment for his ailments. Though it is stated that the petitioner is taking treatment in the prison hospital, since, the appeal is pending, during pendency of the appeal, it is the right of the accused to take treatment as his own choice. Since the appeal is pending, during pendency of the appeal, it is the discretionary power of the Court to release the accused on interim suspension of sentence on the medical ground.

9. Therefore, this Court is inclined to grant **interim suspension of sentence**. Accordingly, the substantive sentence of imprisonment alone is suspended for a period of **five weeks** and petitioner is directed to be enlarged on bail subject to the following conditions;

a. the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge under T.N.P.I.D (in F.E.) Act, 1997, City Civil Court Campus, Chennai- 600104.

b. The petitioner is directed to appear before the respondent police once in a week i.e. on every



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Monday at 10.30 a.m. and surrender before the prison authority before 5.30 p.m. on 17.10.2022.

Failing which, the respondent police shall secure the petitioner and produce him before the jail authority.

10. In the meantime, the respondent police is directed to keep a watch on the movement of the petitioner.

11. Post the matter on 19.10.2022.

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Note: Issue order copy on 09.09.2022



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To

1. The Special Judge under T.N.P.I.D (in F.E.) Act, 1997, City Civil Court
Campus, Chennai- 600104
2. The Superintendent
Central Prison, Puzhal, Chennai - 600066
3. The Inspector of Police
Economic Offences Wing-II,
Villupuram
Villupuram District
4. The Public Prosecutor
Madras High Court, Chennai.



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P.VELMURUGAN, J.

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