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Crl.M.P.No.13388 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2022

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.13388 of 2022

in

Crl.A.No.971 of 2022

A.Ramesh

... Petitioner/Accused

Vs.

State rep by
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Erode.
Crime No.01/AC/2011/ER

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence passed in Spl.C.C.No.23 of 2015 dated 17.08.2022 on the file of learned Chief Judicial Magistrate/Special Judge (Under the Prevention and Corruption Act) and enlarge the petitioner on bail pending disposal of Criminal Appeal before this Court.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.S.Udhayakumar
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by



Crl.M.P.No.13388 of 2022

the learned Chief Judicial Magistrate/Special Judge, Erode by judgment dated 17.08.2022 in Spl.C.C.No.23 of 2015 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

2. The petitioner/appellant herein is the accused in Spl.C.C.No.23 of 2015 on the file of the Chief Judicial Magistrate/Special Judge, Erode. He was found guilty for the offences punishable under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act and he has been convicted and sentenced as under:

Petitioner /Accused	Conviction	Sentence
Petitioner/Accused	Sections 7 of the Prevention of Corruption Act, 1988.	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 one month.
	Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.	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 one month.
The sentences are directed to run concurrently		
Total fine imposed against the petitioner/Accused is Rs.10,000/-		



Crl.M.P.No.13388 of 2022

WEB COP 3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.971 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.The gist of the case is as follows:-

The petitioner/accused was working as in-charge of No.2026, Nallampatti Primary Agriculture Co-operative Credit Society Limited, Pandiyampalayam Branch, Perundurai Taluk, Erode District. P.W.9, the wife of the de-facto complainant/P.W.2 owned two acres of agriculture land in Seenapuram Village and cultivated plantain in the said lands. P.W.9 is the member of the Society. She obtained interest free mortgage crop loan in the year 2009 and the same was repaid by her on 06.10.2010. Thereafter, P.W.2 and P.W.9 approached the accused, who was the in-charge of the branch, for interest free mortgage crop loan. The accused made them to wait for a while and also directed them to produce documents on 16.11.2010. P.W.2 handed over the encumbrance certificate pertaining to the land that belongs to his wife. In the meanwhile, the accused made a demand of Rs.5,000/- as bribe. Since P.W.2 and P.W.9 were not willing to pay the bribe amount, they lodged a complaint before the Inspector of Police, Vigilance and Anti-Corruption Cell, Erode. After



preliminary enquiry, it was forwarded to P.W.11-Trap Laying Officer, who had taken service of accompanying official witness/P.W.7 and another official witness, conducted pre-trap proceedings and thereafter, P.W.7 and P.W.2 went to the office of the accused, wherein, the accused demanded bribe amount and thereafter, P.W.2 handed over the bribe amount to the accused. The accused counted the amount and kept the same in his shirt pocket. After receiving the pre-arranged signal, the trap team entered into the office of the accused and recovered bribe money from the accused shirt pocket. Thereafter, the investigation was handed over to P.W.12, who completed investigation and filed charge sheet before the trial Court.

5. Before the trial Court, on the side of the prosecution 12 witnesses examined as P.W.1 to P.W.12 and marked 25 documents as Exs.P1 to P25 and M.O.1 to M.O.5 marked. On the side of the defence, no witnesses were examined but Exs.D1 and D2 marked.

6. The contention of the petitioner is that the petitioner had been laid into a trap with motivation. The petitioner was not willing to grant crop loan to P.W.9, since the documents were not proper. The required documents for sanctioning loan such as Chitta, Adangal as well as the other documents were



Crl.M.P.No.13388 of 2022

not submitted by P.W.2 and P.W.9. Hence, there was a delay. With this motive, the complaint has been lodged against the petitioner. The petitioner has been falsely implicated in this case. P.W.9 admits that though she had applied crop loan for two acres, she had grown plantain in only one acre, she did not satisfy the loan condition. On the side of the defence, Exs.D1 and D2 were marked, which are Circulars issued by the District Central Co-operative Bank for issuance of crop loan. Learned counsel for the petitioner submitted that during trial, the petitioner was on bail. The petitioner has paid the fine amount of Rs.10,000/- and the Lower Court has suspended the sentence of the petitioner till 19.09.2022. Further, the petitioner has arguable points and fair chance of success in this appeal. Thus, he prayed for Suspension of Substantive Sentence of Imprisonment imposed on the petitioner till the disposal of the appeal.

7. The learned Government Advocate (Crl. Side) appearing for the respondent/Police submitted that P.W.2 is the decoy witness and P.W.7 is the accompanying witness, who had clearly stated about the acceptance and recovery of bribe money from the accused. P.W.11 is the Trap Laying Officer, who had conducted phenolphthalein test, in which the result turned positive. Further, the trapped amount was recovered from the accused, which also tested



positive. Considering all these aspects, the sanction order to prosecute the petitioner/accused was granted. The petitioner gave no explanation to disprove the presumption under Section 20 of Prevention of Corruption Act. He further submitted that during 313 questioning, the petitioner was unable to give any reason or explanation merely stating as “bgha; tHf;F”. In view of the fact that the prosecution had proved its case, the trial Court convicted the petitioner. The points raised by the petitioner now before this Court has already been decided by the trial Court. Accordingly, he objected for the suspension of sentence of the petitioner. He would further submit that the sentence imposed on the accused have been suspended by the trial court till 19.09.2022.

8. Considering the facts and circumstances of the case and nature of the offence and also taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the Substantive Sentence of Imprisonment alone till the disposal of the appeal.

9. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a



Crl.M.P.No.13388 of 2022

sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge (Under Prevention of Corruption Act), Erode.

10.Further, the petitioner is directed to appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

05.09.2022
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To

- 1.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Erode.
- 2.The Chief Judicial Magistrate/Special Judge,
(Under Prevention of Corruption Act),
Erode.
- 3.The Public Prosecutor,
High Court, Madras.

M. NIRMAL KUMAR, J.



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Crl.M.P.No.13388 of 2022

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Crl.M.P.No.13388 of 2022
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