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Crl.M.P.No.16463 of 2022
in Crl.A.No.1153 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2022

CORAM:

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

Crl.M.P.No.16463 of 2022
in
Crl.A.No.1153 of 2022

S.Pandian

... Petitioner/Accused

Vs.

The State rep. by
The Inspector of Police,
Vigilance & Anti-Corruption,
Tiruppur.

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence levied upon the petitioner in order dated 29.10.2021 in Spl.C.C.No.30 of 2014 by the Chief Judicial Magistrate, Tiruppur and to enlarge him on bail.

For Petitioner : Mr.K.Nagarajan

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 the learned Chief Judicial Magistrate/Special Judge, Tiruppur by judgment dated



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29.10.2021 made in Spl.C.C.No.30 of 2014 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.30 of 2014 on the file of the Chief Judicial Magistrate, Tiruppur. He was found guilty for the offences punishable under Sections 7 and 13(1)(d) r/w 13(2) 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 six months rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo six months simple imprisonment.
	Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988.	To undergo one year rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo six months simple imprisonment.
The sentences are directed to run concurrently		
Total fine imposed against the petitioner/Accused is Rs.3,000/-		

3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.1153 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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

The de-facto complainant/P.W.1 went to the Tahsildar Office, Tiruppur to obtain a legal heirship certificate of his deceased father. On 24.02.2008, he approached the petitioner/accused, who is the Assistant in the Tahsildar Office and sought for issuance of legal heir certificate. For issuing legal heirship certificate, the petitioner demanded a sum of Rs.1,000/- as bribe. Again on 29.02.2008, when the de-facto complainant approached the petitioner for issuance of legal heirship certificate, he insisted for the bribe amount. The de-facto complainant not willing to pay the bribe amount, hence lodged a complaint before the Inspector of Police, Vigilance and Anti-corruption, Coimbatore and thereafter pre-trap proceedings were conducted. On 03.03.2008, the de-facto complainant along with the accompanying witness/P.W.2 went to the petitioner's office. The de-facto complainant, who is the decoy witness, paid the amount of Rs.1,000/- to the petitioner/accused. Thereafter, the Trap Laying Officer/P.W.8 on getting pre-arranged signal rushed into the office and caught the petitioner/accused while receiving bribe amount. Phenolphthalein test turned positive confirming that the petitioner had received bribe amount. Thereafter, the accused was arrested and the amount was recovered. Hence, the case has been registered. The trial Court on completion of the trial, convicted the petitioner/accused as above.



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5. Before the trial Court, on the side of the prosecution, 9 witnesses examined as P.W.1 to P.W.9 and marked 24 documents as Exs.P1 to P24 and marked material objects as M.O.1 to M.O.5. On the side of the defence, petitioner examined himself as D.W.1 and no documents marked.

6. The contention of the petitioner is that the de-facto complainant in his chief examination had stated that the petitioner not demanded money on 27.02.2008 and 29.02.2008. On 24.02.2008, the petitioner demanded money and that day was on Friday. But 24.02.2008 fall on Sunday, for which there is no explanation from the prosecution. Learned counsel for the petitioner submitted that the petitioner is not a competent person to issue legal heirship certificate the Legal heir certificate was made ready well before on 07.02.2008 and there is no reason for any demand. Further the Trap money was placed in the drawer without the knowledge of the petitioner, which was later projected as petitioner accepting the bribe amount. Further, there is no materials produced to prove the demand and acceptance of illegal gratification by the petitioner admittedly recovery from the Table drawer. Further submitted that the petitioner has been falsely implicated in this case. The petitioner was on bail during investigation and trial Further, the petitioner has arguable points and fair chance of success in



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this appeal. Thus, he prayed for Suspension of Substantive Sentence of Imprisonment imposed on the petitioner till the disposal of the appeal.

7. Learned Government Advocate (Crl.Side) appearing for the respondent-Police submitted that P.W.1 is the decoy witness, P.W.2 is the accompanying witness and P.W.8 is the Trap Laying Officer. The evidence of P.W.1 and P.W.2 corroborate with each other. On the complaint of de-facto complainant/P.W.1, F.I.R. has been registered. Thereafter, pre-trap proceedings conducted in the presence of P.W.2 and other public servant. The trap has been successfully completed and the trapped amount was recovered from the accused, which also tested positive. The defence of the petitioner had been raised before the trial Court. The petitioner caught red handed while receiving the trap amount. Considering all the materials, the trial Court had rightly convicted the petitioner. Hence, he opposed for grant of bail.

8. Considering the facts and circumstances of the case 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.



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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 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, Tiruppur.

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.

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To

- 1.The Inspector of Police,
Vigilance & Anti-Corruption,
Tiruppur.
- 2.The Chief Judicial Magistrate/Special Judge,
Tiruppur.
- 3.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.
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