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Crl.M.P.No.17631 of 2022
in Crl.A.No.1188 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2022

CORAM:

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

Crl.M.P.No.17631 of 2022
in
Crl.A.No.1188 of 2022

T.S.Jayalakshmi

... Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Vigilance & Anti-Corruption,
Udhagamandalam,
The Nilgris District.

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the execution of the sentence dated 14.11.2022 passed on the file of the Special C.C.No.13 of 2015 of Assistant Sessions Judge/Sub Judge, Special Court for Prevention of Corruption Act Cases, Udhagamandalam and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.V.N.Krishnamurthy

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 Assistant Sessions Judge/Sub Judge, Special Court for Prevention of



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Corruption Act Cases, Udhagamandalam by judgment dated 14.11.2022 made in Spl.C.C.No.13 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.13 of 2015 on the file of the learned Assistant Sessions Judge/Sub Judge, Special Court for Prevention of Corruption Act Cases, Udhagamandalam. She was found guilty for the offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the 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 three years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months simple imprisonment.
	Section 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988.	To undergo four years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo three months simple imprisonment.
The sentences are directed to run concurrently		
Total fine imposed against the petitioner/Accused is Rs.3,000/-		



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3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.1188 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 was working as Junior Assistant in Kilkundha Town Panchayat, Manjoor. The de-facto complainant/P.W.1 submitted an application on 03.07.2008 before the petitioner's office for change of name in the Property Tax. The de-facto complainant approached the petitioner on two, three occasions, but there was no response. On 28.07.2008, when the de-facto complainant approached the petitioner, he initially demanded Rs.2,000/-. Thereafter, the amount was reduced to Rs.1,800/- on 29.07.2008. The de-facto complainant not willing to pay the bribe amount, hence lodged a complaint before the Inspector of Police, Vigilance and Anti-corruption, Udhagamandalam and thereafter pre-trap proceedings were conducted. On 29.07.2008, the de-facto complainant along with the accompanying witness/P.W.2 went to the petitioner's office. The de-facto complainant, paid the amount of Rs.1,800/- to the petitioner/accused. Thereafter, the Trap Laying Officer/P.W.14 on getting pre-arranged signal rushed into the office and caught the petitioner/accused while receiving bribe amount. Phenolphthalein test turned positive confirming



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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.

5. Before the trial Court, on the side of the prosecution, 16 witnesses examined as P.W.1 to P.W.16 and marked 35 documents as Exs.P1 to P35 and marked material objects as M.O.1 to M.O.5. On the side of the defence, no witnesses examined and no exhibits marked.

6. The contention of the petitioner is that the petitioner is said to have demanded Rs.2,000/- as bribe amount from P.W.1 for change of name in the Property Tax. The petitioner has been falsely implicated in this case. The petitioner has given a hand loan of Rs.3,000/- to the de-facto complainant/P.W.1 through P.W.12. Since P.W.1 failed to repay the loan amount within time, there was a verbal abuse. Hence, there was a motive for P.W.1, who lodged false complaint. P.W.14/Trap Laying Officer failed to conduct any independent verification on the genuineness of the complaint. P.W.2 and P.W.3, who are the official witnesses toed the line of the prosecution. P.W.12 clearly stated about the hand loan given by the petitioner during his cross examination. On the



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contrary, the trial Court given extraneous consideration in discarding the evidence of P.W.12 and convicted the petitioner. Learned counsel for the petitioner submitted that the petitioner is now 72 years old. She is suffering with age related health issues. The petitioner is a permanent resident with her family and she will not evade justice and will not be a reason for the delay or seek adjournment, when the appeal is taken up for final hearing. The petitioner was on bail during investigation and trial. Learned counsel further submitted that the petitioner has paid the fine amount of Rs.3,000/-. 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. Learned Government Advocate (Crl.Side) appearing for the respondent-Police submitted that in this case P.W.1 is the decoy witness, P.W.2 and P.W.3 are the accompanying witnesses and P.W.14 is the Trap Laying Officer. Initially, a demand of Rs.2,000/- was made on 28.07.2008. Thereafter, the demand was reduced to Rs.1,800/- on 29.07.2008. The de-facto complainant not willing to pay the bribe amount, hence, lodged a complaint. P.W.14/Trap Laying Officer laid pre-trap proceedings, recorded the same in the presence of official witnesses. Thereafter, P.W.1 and P.W.2 went to the office of the



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petitioner, where the bribe amount was handed over. The petitioner was caught red handed. Phenolphthalein test confirmed the same. The other witnesses have also supported the case of the prosecution except for P.W.12, who in the cross examination gave new explanation for the bribe amount. The defence raised by the petitioner were already raised during trial. The trial Court considering that evidence of P.W.1, P.W.2, P.W.3 and P.W.4 are corroborate with each other, discarded the evidence of P.W.12 and 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.

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 she 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 Assistant Sessions Judge-cum-Special



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Judge, Special Court for Prevention of Corruption Act Cases,
Udhagamandalam.

10. Further, the petitioner is directed to appear before the Special Court,
Coimbatore once in six months at 10.30 a.m., until further orders.

23.11.2022
(2/2)

rsi

Note: Issue order copy on 23.11.2022

To

- 1.The Inspector of Police,
Vigilance & Anti-Corruption,
Udhagamandalam,
The Nilgris District.
- 2.The Assistant Sessions Judge-cum-Special Judge,
Special Court for Prevention of Corruption Act Cases,
Udhagamandalam
- 3.The Superintendent,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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