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Crl.M.P.No.18347 of 2022
in Crl.A.No.1223 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.M.P.No.18347 of 2022

in

Crl.A.No.1223 of 2022

Sivanantham

...Petitioner

Vs.

The state rep. by
The Inspector of Police
Vigilance and Anti Corruption
Nagapattinam
(Crime No.7 of 2011)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence of imprisonment imposed by the trial Court in Special C.C.No.15 of 2014 dated 23.11.2022 on the file of the Hon'ble Asst. Sessions Judge cum Chief Judicial Magistrate Court, Nagapattinam, till the disposal of the present appeal.

For Petitioner : Mr.K.M.Subrahmaniam

For Respondent : Mr.S.Udayakumar,
Government Advocate (Crl.side)



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence imposed by the learned Assistant Sessions Judge cum Chief Judicial Magistrate Court, Nagapattinam in Special C.C.No.15 of 2014 dated 23.11.2022, and enlarge the petitioner on bail pending disposal of the above appeal.

2. The petitioner herein is arrayed as accused in Special C.C.No.15 of 2014 on the file of the learned Assistant Sessions Judge cum Chief Judicial Magistrate Court, Nagapattinam. He was found guilty of the offences under Section 7 of the Prevention of Corruption Act and Section 13 (2) r/w 13(1)(d) of the Prevention of Corruption Act and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Section 7 of the Prevention of Corruption Act, 1988	to undergo simple imprisonment for a period of one year and to pay fine of Rs.5,000/-, in default to undergo simple imprisonment for one month.
2	Section 13 (2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988	to undergo imprisonment for a period of two years and to pay fine of Rs.5,000/-, in default to undergo simple imprisonment for one month.



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Aggrieved against the same, the petitioner has filed this appeal along with the present miscellaneous petition.

3.The learned counsel for the petitioner/accused would submit that there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioner/accused may be suspended. Further it is his specific submission that the petitioner was released on interim bail on 23.11.2022 by the Trial Court by suspending the sentence in Crl.M.P.No.7072 of 2022 till 22.12.2022. He would submit that the petitioner is ready to abide the condition imposed by this Court.

4. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.



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5. Heard the learned counsel appearing on either side and also perused the materials placed on record.

6. Considering the facts and circumstances of the case coupled with the quantum of punishment imposed upon the petitioner, also by considering the submissions of the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police, further this criminal appeal is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions.

7. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment imposed by the learned trial Judge is alone suspended and bail are granted on the following conditions:

(a) The petitioner/accused is ordered to be released on bail, on his executing 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



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Judge cum Chief Judicial Magistrate Court,
Nagapattinam.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court once in a month at 10.30 a.m., until the disposal of the appeal petition 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 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.

8. With the above directions, this Criminal Miscellaneous Petition is ordered.

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G.K.ILANTHIRAIYAN,J.

nr

To

- 1.The Assistant Sessions Judge
cum Chief Judicial Magistrate Court,
Nagapattinam,
2. The Inspector of Police
Vigilance and Anti Corruption,
Nagapattinam
3. The Public Prosecutor,
Madras High Court,
Chennai.

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