



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of April Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

Crl.M.P(MD).No.4759 of 2022

in

Crl.A.(MD).No.281 of 2022

SELVAM @ SELVAPANDI

... PETITIONER / APPELLANT /
ACCUSED NO.2

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KADUPATTI POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.34/2018)

... RESPONDENT / RESPONDENT /
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed by the Special Court to Deal with the cases of offences in contravention of the provisions of the mines and minerals (D and R) Act, Madurai in Spl.SC.No.207/2021 vide the petitioner's judgement dated 05/04/2022.

Prayer in Crl.A.(MD).No.281 of 2022:

To call for the entire records pertaining to the judgment rendered by the Special Court to Deal with the cases of offences in contravention of the provisions of the mines and minerals (D&R) Act, Madurai in Special C.C.No.207/2021 vide the petitioner's judgment dated 05/04/2022 by convicting the appellant under section 379 of IPC sentenced the petitioner to undergo I year RI and to pay a fine of Rs.5,000/-and in default undergo 3 months RI and set aside the same and consequently acquit the appellant Hon'bly.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.M.PITCHAI MUTHU, Advocate for the petitioner and of M/S.M.AASHA, Government Advocate (Crl. Side) on behalf of the Respondent, While admitting the Crl.A., the court made the following order:-



This Criminal Miscellaneous petition has been filed to suspend the sentence passed in C.C.No.207 of 2021, dated 05.04.2022 on the file of the Special Court to Deal with the Cases of Offences in contravention of the provisions of the mines and minerals (D&R) Act, Madurai in Special C.C.No.207 of 2021, pending disposal of the Criminal Appeal.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the Trial Court for the alleged offences punishable under Section 379 of IPC and sentenced to him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for a period of three months.

3.Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel appearing for the petitioner submitted that there are several infirmities in the prosecution case and further, there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. Mrs.M.Aasha, learned Government Advocate (Crl. Side) appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, she strongly opposed to grant suspension of sentence.

6. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

7. The learned counsel appearing for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8.In fine, this petition is allowed and the sentence imposed in C.C.No.207 of 2021 is alone suspended till the disposal of Criminal Appeal No.281 of 2002 and the petitioner shall be released on bail on executing a bond to the tune of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the Special Court to Deal with the cases of offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, Madurai. The petitioner is directed

<https://hdcservices.courts.gov.in/hdcservices> the respondent police daily at 10.30 a.m., for a



period of four weeks and thereafter once in a month till the disposal of the Criminal Appeal.

sd/-
13/04/2022

/ TRUE COPY /

WEB COPY

/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SPECIAL COURT TO DEAL
WITH THE CASES OF OFFENCES IN CONTRAVENTION
OF THE PROVISIONS OF THE MINES AND MINERALS
(D&R)ACT, MADURAI.
- 2 THE INSPECTOR OF POLICE
KADUPATTI POLICE STATION, MADURAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
Crl.M.P(MD).No.4759 of 2022
in
Crl.A.(MD).No.281 of 2022
Date :13/04/2022

vsd
MK/VR/SAR.I/13.04.2022/3P/4C