

CRL.M.P. (MD)No.10423 of 2022

in

CRL.A. (MD)No.537 of 2022

G. ILANGOVAN. J.,

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed upon the petitioner in Spl.SC No.1 of 2017, dated 21.08.2007 on the file of the learned Assistant Sessions Judge/Chief Judicial Magistrate, Pudukkottai and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The petitioner was facing the charges for the offences under section 7 of the Prevention of Corruption Act, 1988 (2 counts) and section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 (2 counts). The petitioner has been convicted by the trial Judge and sentenced him to undergo rigorous imprisonment for a period of 4 years (2 counts) and imposed a fine of Rs.5,000/- (2 counts) (totally Rs.10,000/-) with default clause for the offence under section 7 of the Prevention of Corruption Act; and three years RI (2 counts) and imposed a fine of Rs.2,000/- (2 counts) (Totally Rs.4,000/-) with default clause for the offence under section 13(1)(d) r/w section 13(c) of the Prevention of Corruption Act. Challenging the above said conviction and sentence, the appeal has been preferred. Pending appeal, seeking suspension of sentence, this petition came to be filed.

3.The case of the prosecution is that the petitioner was working as Revenue Inspector at Killukottai Firka, Kulathur Taluk, Pudukkottai District, from 03/11/2004 to 18/11/2005. After the death of the father, the de-facto complainant, who is PW2 applied for legal heir certificate for transfer of patta. He approached the Tahsildhar, who in turn directed him to approach the petitioner for issuing the legal heir certificate. At that time, the petitioner alleged to have demanded Rs.500/- as bribe amount. Since he was not interested in bribing the money, he lodged a complaint. On that basis, trap arrangement was made and this petitioner was arrested, when he demanded and accepted the bribe amount of Rs.500/-. He was convicted and sentenced as noted above.

4.Now the learned counsel appearing for the petitioner would submit that even as per the case of the prosecution, only Rs.500/- alleged to have been demanded by the petitioner towards bribe amount; But during the course of trap, another Rs.40/- was also recovered from the petitioner; When sodium bicarbonate test was undertaken, the above said Rs.40/- also turned pink. So according to the petitioner, it creates doubt with regard to the very nature and foundation of the prosecution case. So according to him, the preparation of mahazar during the course of pre-trap arrangement is also doubtful and how the above

said Rs.40/-, which was recovered from the petitioner also turned pink. No explanation was offered by the prosecution. Even as per the prosecution case, even Rs.40/- is not connected with the above said demand of bribe, PW2 during the course of evidence has given a statement to the effect that the above said Rs.40/- was received by the petitioner to purchase the stamp fee and if it is so, there is no allegation to the effect that the above said amount of Rs. 40/- mixed along with Rs.500/-. So according to him, as mentioned above, it creates doubt.

5.It is seen that no bad antecedent is reported against this petitioner. Considering the above said issue and also considering the fact that it will take time to hear the main appeal for disposal, I am inclined to enlarge the petitioner on bail, by suspending the substantive part of sentence. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i)the petitioner is directed to be enlarged on bail on condition that the petitioner 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/Chief Judicial Magistrate,
Pudukottai; and

(ii)on further condition that the
petitioner shall appear before the said
Court daily at once in a week i.e., on the
first working day of every week at 10.30
am pending appeal.

13.09.2022

Index : Yes/No
Internet : Yes/No

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Note:Issue order copy on 15/09/2022

Copy to:-

The Superintendent,
Central Prison,
Trichy.

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