



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Twenty Ninth day of September Two Thousand and Twenty
Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.10880 of 2022

in

CRL.A.(MD)No.377 of 2022

P.KARTHIK

... PETITIONER / APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
KARUR.

CRIME NO.7/2019

... RESPONDENT / COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imprisonment imposed on the me in Spl C.C No.3 of 2021 on the file of the Learned Special Judge (Vigilance and Anti Corruption), Karur by judgment dated 19.05.2022 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal No.377 of 2022.

PRAYER IN CRL A(MD)No. 377 OF 2022:

To call for the records and set aside the judgment and sentence dated 19.05.2022 imposed in SPL CC No. 3 of 2021, on the file of the learned Special Judge (Vigilance and Anti Corruption)/Chief Judicial Magistrate, Karur.

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.AJMAL KHAN, Senior Counsel for MR.A.MURALIKUMAR, Advocate for the petitioner and of MR.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Judge, (Vigilance and Anti Corruption)/Chief Judicial Magistrate, Karur, dated 19.05.2022, in Spl.C.C.No.3 of 2021 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.



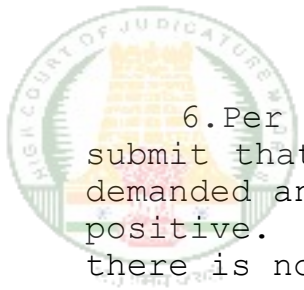
2.The learned counsel for the petitioner submitted that the petitioner, who is the sole accused in this case, has been found guilty and convicted by the learned Sessions judge, for the offence under Section 7(a) of Prevention of Corruption Act, 1988, (Amended by 2018 Act) and sentenced to undergo 5 years rigorous imprisonment and to pay a fine of Rs.25,000/- in default to undergo rigorous imprisonment for a period of one year, in Spl.C.C.No.3 of 2021 on the file of the learned Special Judge, (Vigilance and Anti Corruption)/Chief Judicial Magistrate, Karur. Set off under Section 428 Cr.P.C. was also ordered.

3.The case of the prosecution in brief:

The petitioner was a Government servant working as Assistant Engineer in Agricultural Department, Kulithalai. The defacto complainant wanted to purchase a tractor on subsidy. The accused Officer visited the land for making recommendation. Loan was also sanctioned to him. But, when the defacto complainant approached the accused officer about subsidy, he was delaying the payment and demanded 10% of the subsidy amount as bribe. On the basis of the above said demand, the defacto complainant lodged a complaint on 04.11.2019 and trap was laid and the petitioner was arrested, when he demanded and accepted the bribe amount. Based upon the above said occurrence, investigation was undertaken and on the side of the prosecution during the trial 13 witnesses have been examined and 31 documents were marked. Apart from 5 material objects have also been marked. On the side of the accused 1 witness was examined and 4 documents were marked as Court documents.

4.At the conclusion of the trial, the trial Court came to the conclusion that the guilt was proved upon the petitioner and accordingly, he was convicted and sentenced to undergo 5 years of rigorous imprisonment under Section 7(a) of the Prevention of Corruption Act as per the amended Act. Seeking suspension of sentence, this petition has been filed. The earlier application that was filed by the petitioner came to be dismissed in Crl.M.P. (MD).No.6687 of 2022 on the ground that the judgment is of the recent origin. After lapse of 3 months, this petition came to be filed.

5.The petitioner joined the service only in the year 2018 and he has not even completed the probation period. According to the learned Senior Counsel even as per the case of the prosecution, the petitioner is not the sanctioning authority in respect of the release of subsidy and is only working as an Assistant Engineer in the Department, at the lower level, whose duty is to make a recommendation on the basis of the field inspection. According to him, there was no occasion for this petitioner to demand and accept the bribe amount. This is a matter for consideration during hearing the appeal.



6.Per contra, the learned Additional Public Prosecutor would submit that it is a clear case of trap and during the trap only he demanded and accepted the bribe amount and chemical test also proved positive. According to the learned Additional Public Prosecutor, there is no infirmity in the judgment.

7.Heard both sides and perused the records.

8.It is very unfortunate that the petitioner has not even completed the period of probation, before that he is involved in crime. Now his future is also spoiled because of this case. Whatever may be, whether there was an occasion for this petitioner to demand and accept the bribe amount, is a matter for consideration in the appeal. Moreover, the petitioner is in custody ever since from the date of Judgment and no bad antecedent is reported against the petitioner.

9.Therefore, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and 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 Special Judge, (Vigilance and Anticorruption) / Chief Judicial Magistrate, Karur and on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal.

sd/-

29/09/2022

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30/09/2022

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

TO

- 1 THE SPECIAL JUDGE (VIGILANCE AND ANTI-CORRUPTION)
CHIEF JUDICIAL MAGISTRATE, KARUR.
- 2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION, KARUR.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.A.MURALI KUMAR, Advocate (SR-10794[I] dated 29/09/2022)

ORDER

IN

CRL.M.P. (MD)No.10880 of 2022
in

CRL.A. (MD)No.377 of 2022

Date :29/09/2022