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CrI.M.P.No.3252 of 2023

in

CrI.A.No.234 of 2023

A.D.JAGADISH CHANDIRA, J.,

This Criminal Miscellaneous Petition has been filed by the petitioner /appellant, seeking suspension of sentence of imprisonment, imposed by the Special Judge-cum-Chief Judicial Magistrate, Special Court for the cases under Prevention of Corruption Act, Cuddalore vide judgment in C.C.No.9 of 2010 dated 25.01.2023 and to enlarge the petitioner/appellant on bail.

2. The conviction and sentence imposed against the petitioner /appellant is as follows:-

<i>Accused</i>	<i>Under Section</i>	<i>Sentence</i>
1	7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	two years of rigorous imprisonment with a fine of Rs.1,000/- in default to undergo three months simple imprisonment.
3	Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	two years of rigorous imprisonment with a fine of Rs.1,000/- in default to undergo three months simple imprisonment.



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3. The learned counsel for the petitioner would submit that it is the case of the prosecution is that the petitioner demanded a sum of Rs.1,500/- from the PW-3 for issuing residence certificate, community certificate, income certificate and OBC certificate and on 21.10.2008, PW-3 went along with PW-2 (trap witness) and given cash Rs.1,500/- and thereby apprehended appellant by the respondent police and later filed charge sheet. He would further submit that case of defence is that PW-3 belongs to his village and he had borrowed a sum of Rs.5,000/- towards his wife medical expenses. He had returned a sum of Rs.3,500/- and thereafter, delayed to return a sum of Rs.1,500/-. In this connection, he had requested his balance money. In response to his request PW-3 came to his residence and kept a sum of Rs.1,500/- on his table. The same is confirmed by the PW-3 in his evidence during cross-examination and later he was treated as hostile witness. Thereby veracity of Exhibit P-10 goes and nothing remains in this matter for conviction. He would further submit that veracity of complaint Exhibit P-10 was not proved by prosecution, since PW-3 turned to be hostile by not supporting prosecution theory hence, conviction is bad in law.



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4. The learned counsel for the petitioner /appellant would also submit that the learned trial Court had erroneously convicted the petitioner. He would also submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner/appellant, has got a fair chance of succeeding in the Criminal Appeal and he would pray that the sentence imposed against the petitioner /appellant, may be suspended and he may be enlarged on bail. He would further submit that the fine amount has been deposited before the Trial Court and the Trial Court has also suspended the sentence till 25.02.2023.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the prosecution has proved the case beyond reasonable doubts and the trial Court has rightly found the petitioner /appellant guilty and convicted him as stated above. Therefore, he vehemently oppose for grant of suspension of sentence.



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6. Heard the learned counsel for the petitioner/appellant and Government Advocate (Crl.Side) appearing for the respondent and perused the materials on record.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner/appellant, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioner/appellant shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Special Judge-cum-Chief Judicial Magistrate, Special Court for the cases under Prevention of Corruption Act), Cuddalore.
- ii. The petitioner/appellant shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.



WEB COPY 8. The Criminal Miscellaneous Petition is ordered accordingly.

09.03.2023
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Note :Issue order copy on 13.03.2023



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