



WEB COPY



Crl.M.P.No.4212 of 2023 in Crl.A.No.308 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.4212 of 2023

in

Crl.A.No.308 of 2023

N. Muruganantham

... Petitioner

/vs/

The State represented by
Inspector of Police,
Economic Offences Wing-II,
Namakkal.
(Cr.No.1 of 2014)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to release the petitioner on bail by suspending the sentence imposed in C.C.No.4/2015, dated 06.3.2023 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore, pending disposal of the above appeal.

For petitioner

... Mr.S.Shankar for
Mr.S. Mothilal Nehru

For Respondent

... Mr.A.Gokulakrishnan
APP



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to release the petitioner on bail by suspending the sentence in C.C.No.4 of 2015, dated 06.03.2023 on the file of the Special Judge, Special Court under TNPID Act, Coimbatore, pending disposal of the above appeal.

2. The trial court, by its judgment dated 06.03.2023 made in C.C.No.4 of 2015 convicted and sentenced A2 to A7 as follows;

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A2 to A7	U/s.120B r/w.420 IPC	To undergo RI for 7 years and each to pay a fine of Rs.7000/-(7000 x 6 accused x 45 counts=Rs.18,90,000/-), in default in payment, to undergo further one and half years RI for each count.
	U/s.420 IPC	To undergo RI for 7 years and each to pay a fine of Rs.7000/-(7000 x 6 accused x 45 counts=Rs.18,90,000/-), in default in payment, to undergo further one and half years RI for each count.
	U/s.406 IPC	To undergo RI for 7 years and each to pay a fine of Rs.7000/-(7000 x 6 accused x 45 counts=Rs.18,90,000/-), in default in payment, to undergo further one and half years RI for each count.
	U/s.5 of TNPID Act,	To undergo RI for 7 years and each to pay a fine of Rs.7000/-(7000 x 6 accused x 45



<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
	1997	counts=Rs.18,90,000/-), in default in payment, to undergo further one and half years RI for each count.
Total fine amount is Rs.75,60,000/-, (A2 to A7 have to pay Rs.12,60,000/- each) out of the said fine of Rs.75,60,000/-, a sum of Rs.74,41,384/- shall be distributed to the victims a per their respective dues mentioned in the final report proportionately, after appeal time is over.		
The sentence of imprisonments imposed on the accused were ordered to run consecutively.		

3. Aggrieved over the judgment of conviction and sentence imposed, the petitioner who is A3 in C.C.No.4 of 2015, has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. As per the case of prosecution, in A1-Financial Establishment, which is represented by A2 and A3 as Managing Director and Working Partner, A4 to A7 acted as Agents and A2 to A7 conspiring and colluding together, collected Rs.74,41,384/- from various depositors in the name of A1 company and defaulted payment of assured monthly returns and the deposit amounts. The



petitioner/A3 is only an employee of A1 company and he is no way connected with the transactions between A1 company and its depositors.

Further, the trial court, in its impugned judgment itself in paragraph 39, has observed the admission of PW49-Investigating Officer that the petitioner was not a working partner, but he is an employee of A1 company. But without considering the above aspect, the trial court imposed a fine of Rs.12,60,000/- (to be paid by A2 to A7) and the petitioner is not able to pay that amount. Therefore, there is an arguable point in favour of the petitioner and the petitioner has every chance to succeed in this appeal. Thus, he prayed for granting suspension of sentence imposed on the petitioner by the trial court pending disposal of the criminal appeal.

5. The learned Addl. Public Prosecutor appearing for the respondent, supporting the impugned judgment, objected to suspend the sentence imposed on the petitioner. However, he fairly conceded that in paragraph 39 of the impugned judgment, the trial court observed that 'PW49 Investigating Officer admitted that A3 was not a working partner, but an employee'.

6. Heard the learned counsel appearing for the petitioner and the learned Addl. Public Prosecutor appearing for the respondent and perused the



materials available on record.

WEB COPY

7. It is noticed that the trial court observed in para 39 of the judgment that the petitioner is an employee of A1 company and relied upon the evidence of PW49-Investigation Officer, who admitted that the petitioner/A3 was not a working partner and only an employee of A1 company. In the circumstances, this court is of the view that the petitioner has raised substantial grounds in the appeal which require detailed appraisal and there are arguable points in favour of the petitioner. Further, the appeal is not likely to be taken up in the near future and the petitioner is in judicial custody from 6.3.2023 onwards. In such view of the matter, this Court is inclined to grant the relief of suspension of sentence and bail to the petitioner.

8. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/-(Rupees ten thousand only) along with two sureties, each for a like sum, to the satisfaction of the Special Judge, Special Court under TNPID Act, Coimbatore.
- (ii) The petitioner and the sureties shall affix their



WEB COPY



Crl.M.P.No.4212 of 2023 in Crl.A.No.308 of 2023

photographs and Left Thumb Impression in the surety bonds and the abovesaid Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;
(iii) The petitioner shall surrender before the trial Court as and when required.

27.03.2023

msr

To

1. The Special Judge, Special Court under TNPID Act, Coimbatore.
2. The Inspector of Police, Economic Offences Wing-II, Namakkal.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Coimbatore.

V. SIVAGNANAM, J.

msr



WEB COPY



Crl.M.P.No.4212 of 2023 in Crl.A.No.308 of 2023

Crl.M.P.No.4212 of 2023
in
Crl.A.No.308 of 2023

27.03.2023