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Crl.M.P.No.6628 of 2023 in Crl.A.No.541 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.6628 of 2023

in

Crl.A.No. 541 of 2023

V.Elango

...Petitioner/A2

Vs.

State by its
Inspector of Police,
Vigilance and Anti-Corruption,
Coimbatore.
(Crime No.12/28/AC/CB/2008)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 of Cr.P.C to suspend the sentence of imprisonment imposed IN Spl. C.C.No. 54 of 2011 by the learned Special Judge and Special Court for trial of cases under the Prevention of Corruption Act, Coimbatore by judgment dated 11.04.2023 and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.C.Deepak Kumar

For Respondent : Mr.V.Meganathan,
Govt. Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/A2, seeking to suspend the sentence of imprisonment imposed upon them in Spl. C.C.No. 54 of 2011 dated 11.04.2023 by the learned Special Court for trial of cases under Prevention of Corruption Act, Coimbatore and enlarge the petitioner on bail pending disposal of the above criminal appeal.

2. The petitioner herein is arrayed as A2 in Spl.C.C.No.54 of 2011 on the file of the learned Special Court for trial of cases under Prevention of Corruption Act, Coimbatore. He was convicted of the offence under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and was sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.4,000/-, in default to undergo three months simple imprisonment. Aggrieved over the same, the petitioner had filed the present criminal appeal.



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3. The case of the prosecution is that the defacto complainant approached A1 and A2, who are working as Junior Assistants and they are incharge of seats of A10 and A8 respectively in the allotment section at the office of Executive Engineer and Administrative Officer, TNHB, Coimbatore Housing Unit to process the work of issuing sale deeds in the name of his wife, his sister and his relative, for which, they demanded a sum of Rs.8000/- and Rs.2000/- respectively as bribe from him. However, A1 reduced the bribe amount to Rs.5000/- and A2 did not reduce the bribe amount of Rs.2000/-. In pursuance of the said demand, on 22.07.2008 both the accused have accepted the bribe from the defacto complainant in the presence of official witness, thereby both A1 and A2 committed the offence punishable under Sec.7 of Prevention of Corruption Act, 1988.

4. According to the learned counsel for the petitioner, there are arguable points available in the Criminal Appeal and the petitioner has got a fair chance of succeeding in the Criminal Appeal. He would further submit that already the fine amount was deposited on the file of trial



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court and the sentence now been suspended for a period of 30 days. He would also submit that since the appeal is not likely to be listed for hearing soon and also due to health reasons, he prayed to suspend the substantive sentence imposed against the Petitioner.

5. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

6. Heard the learned counsel appearing on either side and also perused the materials placed on record.

7. Considering the facts and circumstances of the case, also considering the submissions of the learned counsel for the petitioner and the learned Government Advocate (crl. side) appearing for the



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respondent police, further this appeal is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail are granted on the following conditions:

(a) 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) (each)** with two sureties each for a like sum to the satisfaction of the learned Special Judge and Special Court for trial of cases under the Prevention of Corruption Act, Coimbatore

(b) The petitioner and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the criminal appeal and if he is not



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able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

8. With the above directions, this Criminal Miscellaneous Petition is ordered.

05.05.2023

rpp/mfa

To

- 1.The Special Judge and Special Court for trial of cases under the Prevention of Corruption Act, Coimbatore.
- 2.The Inspector of Police, Vigilance and Anti-Corruption, Coimbatore.
- 3.The Public Prosecutor, High Court of Madras, Chennai



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G.K.ILANTHIRAIYAN, J.

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