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CrI.M.P.No.6879 of 2023
in CrI.A.No.552 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.05.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.M.P.No.6879 of 2023

in

CrI.A.No.552 of 2023

G.Sivakumar

...Appellant

Vs.

State rep. By,
Inspector of Police,
Economic Offences Wing-II,
Coimbatore.
(Crime No.5 of 2018)

...Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence and enlarge the petitioner on bail connected in C.C.No.6 of 2022 on the file of the learned Special Judge, Special Court under TNPID Act, Coimbatore till disposal of the appeal.

For Petitioner : Mr.P.Ezhil Nilavan

For Respondent : Mr.E.Raj Thilak

Additional Public Prosecutor



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ORDER

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This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner by the Trial Court, in C.C.No.06 of 2022 on the file of the Special Judge, Special Court under the Tamil Nadu Protection of Interests of Depositors Act Cases, Coimbatore vide judgment dated 24.03.2023, pending disposal of the appeal.

2. Totally, there are 7 accused in C.C.No.06 of 2022 on the file of the Special Court under TNPID Act, Coimbatore and the petitioner herein is A2. A1 is "White Collar Associates", a financial Establishment and A2 to A7 are responsible for the management and day to day affairs of A1 Financial Establishment. The allegation against the accused is that A2 to A7 had collected deposits from the public fraudulently and dishonestly with the intention to cheat the depositors with false promise of unrealizable returns and assured to return the principal amount at the end of the term and swindled the deposit amounts.



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3. The learned Special Judge, Special Court under TNPID Act, Coimbatore, vide judgment dated 24.03.2023 passed in C.C.No.06 of 2022, convicted and sentenced the accused persons, as extracted hereunder.

<i>Rank of the accused</i>	<i>Convicted under Sec.</i>	<i>Sentence</i>
A2 to A7	Sec.120B read with 420 of IPC	Each to undergo 7 years rigorous imprisonment and to pay fine of Rs.60,000/- for each counts [Fine of Rs.60,000/- x 5 counts x 6 accused = 18,00,000/- in default of payment of fine to undergo further one and half years rigorous imprisonment for each count
A2 to A7	Sec.420 IPC	Each to undergo 7 years rigorous imprisonment and to pay fine of Rs.60,000/- for each counts [Fine of Rs.60,000/- x 5 counts x 6 accused = 18,00,000/- in default of payment of fine to undergo further one and half years rigorous imprisonment for each count
A2 to A7	Sec.406 IPC	Each to undergo 3 years rigorous imprisonment and to pay fine of Rs.60,000/- for each counts [Fine of Rs.60,000/- x 5 counts x 6 accused = 18,00,000/- in default of payment of fine to undergo further nine months rigorous imprisonment for each count



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<i>Rank of the accused</i>	<i>Convicted under Sec.</i>	<i>Sentence</i>
A2 to A6	Sec.5 TNPID Act 1997	Each to undergo 10 years rigorous imprisonment and to pay fine of Rs.60,000/- for each counts [Fine of Rs.60,000/- x 5 counts x 6 accused = 18,00,000/- in default of payment of fine to undergo further two years rigorous imprisonment for each count
The sentences shall run concurrently. The imprisonment has already undergone by A2 to A7, if any, shall be set off as per Section 428 of Cr.P.C. Total fine amount of Rs.72,00,000/.		

4. Aggrieved over the judgment of conviction and sentence imposed by the Trial Court, the petitioner/A2 filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

5. 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. He further submitted that the prosecution failed to establish the



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fact that the petitioner is neither partner nor director of A1 company and the petitioner never received any amount from any of the witnesses. He would also submit that this Court granted interim suspension of sentence to the co-accused in Crl.M.P.No.5867 of 2023 dated 26.04.2023. Hence, he may be granted suspension of sentence imposed on him by the trial court.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

7. Considering the submission made by the learned counsel appearing on both sides, and also taking into account the gravity of the offence involved in this matter, this Court is inclined to grant interim suspension of sentence imposed on this petitioner/A2 only for a period of three months on the following conditions.:-

[i] The petitioner shall pay the 20% of the fine amount of imposed on the petitioner within a period of one month from the date of his release.

[ii] The petitioner is ordered to be released on bail for a period of



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three months on executing a bond for a sum of Rs.25,000/-(Rupees twenty five thousand only) along with two sureties, each for a like sum, to the satisfaction of the Trial Court;

(iii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity;

[iv] The petitioner shall settle the remaining amount to the depositors within a period of three months and

[v] The petitioner shall surrender before the trial Court after the interim suspension of sentence period of three months is over.

8. Call the matter after three months.

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kkn/shr

Internet : Yes/No

Index: Yes/No

Speaking / Non-speaking order

Nuetral Citation :Yes/No



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To:-

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



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SUNDER MOHAN, J.

KKN/SHR

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