



Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.M.P. No.8909 of 2023 in
Crl.A. No.212 of 2022

S. Prabhu

...Petitioner

Vs.

The State rep. by
The Inspector of Police
Economic Offences Wing-II
Erode.

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 Cr.P.C. praying to suspend the sentence of imprisonment imposed on the petitioner by the learned Special Judge, Special Court under TNPID Act, Coimbatore, vide judgment dated 23.11.2021 in C.C., No.3 of 2014 and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

For Petitioner : Mr.S. Sathiaselvan
For Respondent : Mr. S. Sugendran
Additional Public Prosecutor.

ORDER

This criminal miscellaneous petition is filed seeking to suspend the sentence of imprisonment imposed on the petitioner by the learned Special Judge, Special Court under TNPID Act, Coimbatore, vide judgment dated 23.11.2021, in C.C., No.3 of 2014, and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2.The petitioner, who was the 6th accused in C.C.No.3 of 2014 before the Special Judge, Special Court under TNPID Act, Coimbatore, was convicted and sentenced on 23.11.2021 as follows:

S.No.	Provision under convicted	Sentence
1	Section 420 IPC and Section of TNPID Act	Fine amount of Rs.30,000/- for each counts (fine of Rs.30,000 x 69 counts) in total Rs.20,70,000/-, in default, to undergo rigorous imprisonment. for one year for each count.
2.	Section 120 B r/w 420 IPC	Rigorous imprisonment for seven



Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

WEB COPY

		years and to pay a fine of Rs.30,000/- for each counts (30,000x69 counts) in total Rs.20,70,000/- , in default, to undergo further rigorous imprisonment for one and half years for each count.
3.	Section 420 IPC	Rigorous imprisonment for seven years and to pay a fine of Rs.30,000/- for each counts (30,000x69 counts) in total Rs.20,70,000/- , in default, to undergo further rigorous imprisonment for one and half years for each count.
4.	Section 5 of T.N.P.I.D Act, 1997	Rigorous imprisonment for ten years and to pay a fine of Rs.30,000/- for each counts (30,000x69 counts) in total Rs.20,70,000/- , in default, to undergo further rigorous imprisonment for two years for each count.

3.Challenging the above, the petitioner/ 6th accused has filed Crl.A.No.212 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.



Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

WEB COPY

4. Mr.S. Sathiaselvan, learned counsel for the petitioner contended that the present petitioner was not actively involved in the day to day affairs of the company and there is nothing on record to show that he also collected deposits from various persons. His further contention is that this court had granted suspension of sentence to the 3rd accused and this petitioner should also be enlarged on bail.

5. Per contra, Mr. S. Sugendran, learned Additional Public Prosecutor, appearing for the respondent contended that a perusal of the entire judgment passed by the Special Judge, Special Court under TNPID Act, Coimbatore, would go to show that the present petitioner was actively involved in the offence and that the main case itself can be taken up for final hearing. He would further contend that this court enlarged the 3rd accused on bail and granted suspension of sentence to her only on the ground that she is a lady aged 31 years. He therefore, prayed for dismissal of the present petition.



Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

WEB COPY

6. This Court, vide orders dated 26.08.2022, in Crl.M.P. No.14275 of 2021, granted suspension of sentence on the following conditions.

5.In view thereof, considering the age and background of A3 and the totality of the circumstances, I am of the view that both substantive sentence of imprisonment and the sentence of fine can be suspended pending disposal of the appeal on the following terms:

(a) the petitioner/A3 shall deposit a sum of Rs.10,00,000/- to the credit of C.C.No.3 of 2014, on the file of the Special Judge, Special Court under TNPID (in Financial Establishment) Act 1997 at Coimbatore.

(b) The petitioner/A3 is ordered to be released on bail, on her executing a 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 Trial Court;



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(c) On such deposit of Rs. 10,00,000/- and execution of 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 Trial Court, the sentence of the petitioner/A3 shall stand suspended and the petitioner/A3 shall be enlarged on bail;

(d) after coming out of prison, within a period of three months therefrom, the petitioner/A3 shall deposit another sum of Rs.10,00,000/- to the credit of the Trial Court as mentioned above. It is made clear that there shall be no further extension of time will be granted for the deposit of the second installment of Rs.10,00,000/- and if the petitioner/A3 fails to comply with the conditions, the suspension of sentence shall stand automatically vacated and the petitioner/A3 will be committed to prison to undergo the sentence;

(e) the petitioner/A3 and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their



Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

WEB COPY identities;

(f) the petitioner/A3 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 able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of 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.

7. Subsequently, on a petition filed by A3 in Crl.M.P. No.7630 of 2023, this Court, vide orders dated 02.06.2023, modified the condition imposed in Crl.M.P. No.14275 of 2021, by reducing the amount to be deposited by A3 from Rs.10 lakhs to Rs.5 lakhs, since it was represented that A3 did not have wherewithal to pay the said amount.

8. Since one of the accused had already been enlarged on bail, this



Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

Court is inclined to suspend the sentence imposed on the present petitioner in C.C. No.3 of 2014 dated 23.11.2021 on the file of the Special Judge, Special Court under TNPID (in Financial Establishment) Act 1997, Coimbatore, and enlarge the present petitioner on bail on the same conditions imposed to A3.

(a) the petitioner/A6 shall deposit a sum of Rs.5,00,000/- to the credit of C.C.No.3 of 2014, on the file of the Special Judge, Special Court under TNPID (in Financial Establishment) Act 1997 at Coimbatore.

(b) The petitioner/A6 is ordered to be released on bail, on his executing a 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 Trial Court;

(c) On such deposit of Rs.5,00,000/- and execution of 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 Trial Court, the sentence of the petitioner/A6 shall stand



CrI.M.P. No.8909 of 2023 in CrI.A. No.212 of 2022

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suspended and the petitioner/A6 shall be enlarged on bail;

(d) after coming out of prison, within a period of three months therefrom, the petitioner/A6 shall deposit another sum of Rs.10,00,000/- to the credit of the Trial Court as mentioned above. It is made clear that there shall be no further extension of time will be granted for the deposit of the second installment of Rs.10,00,000/- and if the petitioner/A6 fails to comply with the conditions, the suspension of sentence shall stand automatically vacated and the petitioner/A6 will be committed to prison to undergo the sentence;

(e) the petitioner/A6 and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(f) the petitioner/A6 shall appear before the Trial Court on



CrI.M.P. No.8909 of 2023 in CrI.A. No.212 of 2022

WEB COPY

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 able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of 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.

24.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

Note: Issue order copy on 24.07.2023



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Crl.M.P. No.8909 of 2023 in Crl.A. No.212 of 2022

R. HEMALATHA, J.
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To

1. The Special Judge
The Special Court under TNPID Act, Coimbatore
2. The Superintendent of Prison,
Central Jail, Coimbatore.

**Crl.M.P. No.8909 of 2023 in
Crl.A. No.212 of 2022**

24.07.2023
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