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Crl.M.P.No.13160 of 2022 in Crl.A.No.951 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.13160 of 2022

in

Crl.A.No.951 of 2022

Thangarasu

/vs/

... Petitioner

1.The State of Tamilnadu,
represented by Deputy Superintendent
of Police, Kallakuruchi Sub Division,
Sankarapuram Police station,
Villupuram District.
Cr.No.446 of 2006

2. Munusamy

.. Respondents

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence passed by the Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Schedule Caste and Schedule Tribe Prevention of Attrocities Act, 1989, Villupuram in S.C.No.225 of 2015, dated 29.06.2022 and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

For Petitioner

... Mr. M. Devaraj

For Respondents

... Mr.A.Gokulakrishnan

APP – for R1

R2-notice served, none appeared



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ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence passed by the Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Schedule Caste and Schedule Tribe Prevention of Atrocities Act, 1989, Villupuram in S.C.No.225 of 2015, dated 29.06.2022 and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. Totally there were 17 accused in S.C.No.225 of 2015 and the petitioner is A1. The trial court, by its judgment dated 29.06.2022, convicted and sentenced the petitioner/A1 as follows;

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1	U/s.3(1)(r) of SC/ST (POA) Amendment Act, 2015	To undergo RI for a period of 3 years and to pay a fine of Rs.1000/-, failing which, to undergo RI for further period of 6 months.
	u/s.3(1)(s) of SC / ST (POA) Amendment Act, 2015	To undergo RI for 3 years and to pay a fine of Rs.1000, failing which, to undergo RI for further period of 6 months.

The petitioner is acquitted from the charges framed under sections 341 IPC r/w.149, 147 IPC r/w.149, 148 IPC r/w.149, 307 IPC r/w.149, 336 IPC r/w.149 and 324 IPC. The sentence of imprisonments were ordered to run



concurrently.

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3. Challenging the above conviction and sentence, the petitioner has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail till the disposal of the appeal.

4. Though notice has been served on the 2nd respondent/defacto complainant and his name being printed in the cause list, there is no representation for him either in person or through counsel today. The 2nd respondent is called absent.

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 would further submit that even though the respondent police prosecuted the petitioner for having committed the offences punishable under sections 341 IPC r/w.149, 147 IPC r/w.149, 148 IPC r/w.149, 307 IPC r/w.149, 336 IPC r/w.149 and 324 IPC, 3(1)(r) and 3(1)(s) of SC/ST (POA) Amendment Act, 2015, he was found guilty only for the offences under sections 3(1)(r) and 3(1)(s) of SC/ST (POA) Amendment Act, 2015. He



further submitted that even before the trial court, his sentence has been suspended and now he filed appeal and there are arguable points in this appeal and the petitioner has every chance to succeed in this Appeal. Thus, he prayed for suspension of sentence till the disposal of the Criminal Appeal.

6. The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the petitioner who is arrayed as A1 was prosecuted for the offences as stated above, he was found guilty by the trial court only for the offences punishable under sections 3(1)(r) and 3(1)(s) of SC/ST (POA) Amendment Act, 2015. However, he fairly conceded that the trial court itself had suspended the sentence of imprisonment imposed on the petitioner.

7. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent and perused the impugned judgment and the materials available on record.

8. A perusal of records would reveal that the petitioner was prosecuted by the respondent police for the offences punishable under sections 341 IPC



r/w.149, 147 IPC r/w.149, 148 IPC r/w.149, 307 IPC r/w.149, 336 IPC

r/w.149 and 324 IPC, 3(1)(r) and 3(1)(s) of SC/ST (POA) Amendment Act,

2015 and after trial, he was found guilty under sections 3(1)(r) and 3(1)(s) of SC/ST (POA) Amendment Act, 2015 alone. In the circumstances, the petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

9. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner pending disposal of the appeal, on the following conditions:

- (i) The petitioner shall surrender before the Judicial Magistrate, Sankarapuram within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner is ordered to be released on bail on 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 abovesaid court.
- (ii) The petitioner and the sureties shall affix their 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;



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and;

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(iii) The petitioner shall appear before the trial Court as and when required.

17.04.2023

msr

To

1. The Judicial Magistrate, Sankarapuram
2. The Sessions Judge, Special Court for Exclusive Trial of Cases registered under the Schedule Caste and Schedule Tribe Prevention of Atrocities Act, 1989, Villupuram.
3. The Deputy Superintendent of Police, Kallakurichi Sub Division, Sankarapuum Police Station, Villupuram District.
4. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

msr

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