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Crl.M.P.No.9326 of 2023
in
Crl.A.No.705 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.07.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.M.P.No.9326 of 2023

in

Crl.A.No.705 of 2023

K.Viswanathan

.. Petitioner

/versus/

The State of Tamil Nadu represented by
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Erode.
(Crime No.03/AC/2011/ER)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 389(i) of Cr.P.C., praying to suspend the sentence of imprisonment imposed on the petitioner by the Chief Judicial Magistrate/Special Judge, Erode by judgment in Special C.C.No.37 of 2015 (CNR No.TNED04-000236-2015) dated 12.06.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner

... Mr.T.Gowthaman, Senior Counsel
for Mr.S.Karpagapriya

For Respondent

... Mr.S.Udaya Kumar
Government Advocate(Crl.Side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed on the petitioner by the Chief Judicial Magistrate/Special Judge, Erode by judgment in Special C.C.No.37 of 2015 (CNR No.TNED04-000236-2015) dated 12.06.2023 and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. The petitioner, who was working as a Foreman (Grade-1), O & M, TNEB, Thamaraipalayam, Erode District, was trapped, while receiving a bribe money of Rs.1000/- from PW-1. It is alleged to be the motive for sanctioning service connection. The trial Court satisfied with the prosecution witnesses and found the accused guilty of the offence under Section 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act 1988 and convicted and sentenced as below:-

<i>Name of the Accused</i>	<i>Conviction</i>	<i>Sentence</i>
Viswanathan	Section 7 of PC Act	To undergo 3 years RI and fine of Rs.5000/- in default to undergo SI for 1 month
	Section 13(2)r/w 13(1)(d) of PC Act	To undergo 3 years RI and fine of Rs.5000/- in default to undergo SI for 1 month



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3. In the grounds of the appeal, the accused/appellant has stated that, the trial Court has not properly appreciated the testimony of DW-1. A chance witness, who was present in the scene of trap had deposed that the money was forcibly trusted to the accused/appellant even though he resisted it. Since there are some arguable points are available in the grounds of the appeal, this Court is inclined to suspend the sentence, pending appeal or until further order. Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioner/appellant is directed to be enlarged on bail subject to the following conditions:-

(a)The petitioner shall surrender before the trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees fifty thousand only)** along with two sureties each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge, Erode.

(b)the petitioner and the sureties shall affix their photograph and left thumb impression in the bond and the above said Court may obtain a copy of his Adhar card or Bank pass Book to ensure his identity.



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(c)The petitioner shall report before the trial
Court on the first working of every month at 10.30
a.m., until further orders.

07.07.2023

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Note:Issue order copy on 10.07.2023

To:

- 1.The Chief Judicial Magistrate/Special Judge, Erode.
- 2.The Deputy Superintendent of Police, Vigilance and Anti-Corruption,
Erode.
- 3.The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J

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