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*Crl.M.P.No.14083 of 2023
in Crl.A.No.964 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2023

CORAM:

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

Crl.M.P.No.14083 of 2023

in

Crl.A.No.964 of 2023

R.Vivekanandan

...Petitioner

Vs.

The State by its
The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Erode.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence passed by the Chief Judicial Magistrate/ Special Judge, Erode in Special C.C.No.02 of 2019 dated 28.08.2023 and enlarge the petitioner on bail pending the criminal appeal.

For Petitioner : Mr.A.S.Balaji

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence imposed by the learned Chief Judicial Magistrate/ Special Judge, Erode, in Spl.C.C.No.02 of 2019 dated 28.08.2023, and enlarge the petitioner on bail pending disposal of the above appeal.

2. The petitioner herein is the accused in Spl.C.C.No.02 of 2019 on the file of the learned Chief Judicial Magistrate/ Special Judge, Erode,. She was found guilty of the offences under Sections 7, 13(2) and 13(1)(d) of Prevention of Corruption Act, 1988 and they have been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Section 7 of Prevention of Corruption Act, 1988	to undergo rigorous imprisonment for a period of four years and to pay fine of Rs.50,000/-, in default to undergo simple imprisonment for six months.
2	Section 13(2) and 13(1)(d) of Prevention of Corruption Act, 1988	to undergo rigorous imprisonment for a period of four years and to pay fine of Rs.50,000/-, in default to undergo simple imprisonment for six months.

Aggrieved against the same, the petitioner has filed an appeal along with the



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present miscellaneous petition.

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3. The learned counsel for the petitioner/accused would submit that there are arguable points available in the Criminal Appeal and the petitioner/accused have got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioner/accused may be suspended. He would submit that the petitioner is ready to abide the condition imposed by this Court.

4. 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.

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

6. Considering the facts and circumstances of the case coupled



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with the quantum of punishment imposed upon the petitioner, also by considering the submissions of the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police, further this criminal 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.

7. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment imposed by the learned trial Judge is alone suspended and bail are granted on the following conditions:

(a) The petitioner/accused is ordered to be released on bail, on their executing a separate 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 learned Chief Judicial Magistrate/ Special Judge, Erode

(b) The petitioner/accused 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.



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(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 appeal and if she is not able to appear before the trial Court on any day, she 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.

05.10.2023

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Note: Issue Order Copy on 05.10.2023



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G.K.ILANTHIRAIYAN,J.

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To

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

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