



Crl.M.P.No.18809 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

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THE HON'BLE MR. JUSTICE T.V.THAMILSELVI

Crl.M.P.No.18809 of 2022

in

Crl.A.No.1243 of 2022

1.K.G.Natesan

2.S.Malliga

... Petitioners/Appellants

Vs.

The State represented by,
Additional Superintendent of Police,
Vigilance and Anti-Corruption
Coimbatore.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., pleaded to suspend the execution of the sentence dated 29.11.2022 passed on the file of the Special C.C.No.35 of 2015 on the file of the learned Chief Judicial Magistrate/Special Judge, Erode and enlarge the petitioners on bail pending disposal of the criminal appeal.

For Petitioners : Mr.B.Kumar
Senior Counsel
for Mr.S.Ramachandran

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER



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This Criminal Miscellaneous Petition has been filed by the petitioners/appellants, seeking suspension of sentence of imprisonment, imposed by the learned Chief Judicial Magistrate/Special Judge, Erode, vide judgment in Special C.C.No.35 of 2015 dated 29.11.2022.

2. In and by the judgment of the Trial Court that the 1st petitioner/appellant was convicted for the offence under Section 13(2) read with 13(1) (e) of PC Act, 1988 and sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.50,00,000/- as fine, in default to undergo one year simple imprisonment and the 2nd petitioner/appellant was convicted for the offence under Section 109 IPC read with 13(2) read with 13(1) (e) of PC Act, 1988 and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.50,00,000/- as fine against which, the present appeal has been filed.

3. According to the learned counsel for the petitioners/appellants, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioners/appellants has got a fair chance of succeeding in the Criminal Appeal and hence, the



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sentence imposed against the petitioners/appellants may be suspended and the petitioners/appellants may be enlarged with bail.

4. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent submitted that the prosecution has proved the case beyond reasonable doubts and the trial Court on finding the petitioners/appellants guilty convicted him as stated above. Therefore, he vehemently opposed for grant of suspension of sentence.

5. Heard the learned counsel for the petitioners/appellants and the learned Additional Public Prosecutor appearing for the respondent and perused the materials on record.

6. The amount of Rs.84,57,697/- + Rs.2,93,500/-=Rs.87,51,197/- which was deposited by accused as per order of the Hon'ble Supreme Court and deposited in the Punjab National Bank, Erode, in F.D.No.623400DP00013575 (Rs.84,57,697/-) and in the Punjab National Bank, Erode, in F.D.No.623400DP00013663 (Rs.2,93,500/-) along with interest shall be adjusted toward the fine amount and the balance fine amount



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shall be recovered from the accused by adopting revenue recovery. The petitioners have already paid the fine amount. Considering the facts and circumstances of the case and the petitioners are aged about 74 and 68 years and also considering the submissions of the learned counsel for the petitioners/appellants, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioners/appellants shall execute a separate bond for a sum of Rs.1,00,000/- (Rupees One Lakhs Only), with two sureties (out of which one surety shall be a blood related surety), each for a like sum to the satisfaction of the learned Chief Judicial Magistrate/Special Judge, Erode;
- ii. The petitioners/appellants shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

7. With the above directions, the Criminal Miscellaneous Petition



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is ordered accordingly.

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25.01.2023

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(2/2)

To

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



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T.V.THAMILSELVI, J.

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