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Crl.M.P.No.18220 of 2023 in Crl.A.1300 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.18220 of 2023

in

CrlA.No.1300 of 2023

Thegarajan @ Thiyagarajan

... Petitioner

Versus

State represented by
The Inspector of Police
Vigilance and Anti corruption,
Namakkal.
(Crime No.5/AC/2013)

... Respondent

Criminal Miscellaneous Petition is filed under Section 389(1) r/w. 439 of Cr.P.C to suspend the sentence of imprisonment imposed in the judgment dated 30.10.2023 in Spl.C.C.No.27 of 2014 on the file of the learned Special Court/Chief Judicial Magistrate Court, Namakkal and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner : Mr. Premkumar,
for Mr.M.Guruprasad

For Respondent : Mr. C.E.Pratap
Government Advocate (crl.side)



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ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner/appellant, seeking suspension of sentence of imprisonment, imposed by the learned Special Judge, Special Court/Chief Judicial Magistrate Court, Namakkal, vide judgment in Spl.C.C.No.27 of 2014 dated 30.10.2023.

2. The case of the prosecution is that the accused, viz, Thegarajan @ Thiagarajan, was working as a Forest Guard at Thanthankombai Beat at Namakkal Range office between 09.11.2008 and 21.08.2013, apart from that, he was also working as Additional charge in Nadukombai Beat from 01.05.2013 to 21.08.2013 and thereby, he is a public servant. Since P.W.2 Sekar, had removed the palm trees with the roots and left it in his lands on 08.08.2023 at 7.00 p.m, the accused had demanded a sum of Rs.15,000/- from P.W.2 for not registering a case against him and later, he had reduced the demand to Rs.5000/- and on 17.08.2013, at 4.30 p.m., he demanded Rs.5000/- from P.W.2. The petitioner/accused had insisted P.W.2/defacto complainant to bring the bribe amount of Rs.5000/- on 21.08.2013 to his house during forenoon. Since he was not inclined to give the bribe amount, he had lodged a complaint against the accused on 21.08.2013. After registering the case and completing the formalities, the respondent set a trap at the house of the



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petitioner/accused and the accused was arrested on 21.08.2013 at 12.15 p.m., while he received the bribe amount from the de-facto complainant/P.W.2 in the presence of Mohanraj/P.W.3. The Trap Laying Officer, after completing the investigation, had handed over the case to P.W.15 for further investigation. After examining the witnesses and collecting the documents and material objects, he had filed the final report against the accused for the offences under Sections 7 and 13(2) r/w. 13(1)(d) of the PC Act.

3. On the side of the prosecution P.W.1 to P.W.15 were examined and Ex.Ps.1 to 25 and M.Os.1 to 5 were marked.

4. The case was taken up for trial in Spl.C.C.No.27 of 2014 on the file of the learned Special Judge, Special Court/Chief Judicial Magistrate, Namakkal. After hearing the arguments, the trial Court found the appellant/accused guilty and convicted her as follows :-

<i>Under Section</i>	<i>Sentence</i>
7 of Prevention of Corruption Act, 1988	Four years of simple imprisonment and a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment.
13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	Four years of simple imprisonment and a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment.

Against which, the present Criminal Miscellaneous Petition has been filed.



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5. The learned counsel for the petitioner would submit that the petitioner/appellant is innocent and he has been falsely roped in this case.

Earlier, there were loan transactions between the petitioner and the defacto complainant's family. By examining DW1 that the petitioner had raised a probable defence. Subsequent to the arrest, the petitioner/accused was removed from the service. However, the Trial Court, without taking the same into consideration, had found the petitioner guilty.

6. He also submitted that the petitioner has also remitted the fine amount before the Court concerned. He further submitted that the petitioner is now confined in Central Prison, Coimbatore. There are arguable points available in the Criminal Appeal, which is not likely to be taken up for final hearing in the near future and the petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal and hence, the sentence imposed against the petitioner/appellant may be suspended and the petitioner/appellant may be enlarged with bail.

7. The learned Government Advocate (crl.side) would submit that the petitioner, who is the Forest Guard, had demanded a sum of Rs.15000/- from the P.W.2/defacto complainant for not registering the case against the



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accused. Subsequently, he has reduced the demand to Rs.5000/- and based on the complaint given by P.W.2, a case was registered, a trap was laid and the accused had received the bribe amount in the presence of P.W.3, the shadow witnesses. The prosecution, by examining the witnesses and marking the documents, had proved the case of demand, acceptance and recovery. The Trial Court had rightly found the accused guilty. Therefore, he vehemently opposed for grant of suspension of sentence and bail.

8. Heard the learned counsel for the petitioner/appellant and learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials on record.

9. Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel for the petitioner/appellant, 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 petitioner/appellant shall execute bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the



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satisfaction of the learned Special Judge, Special Court/Chief Judicial Magistrate, Namakkal ;

- ii. The petitioner/appellant shall appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

10. Accordingly, the Criminal Miscellaneous Petition stands ordered.

22.12.2023

mrp

Note : Issue order copy today (22.12.2023)

To

1. The Special Judge,
Special Court/Chief Judicial Magistrate,
Namakkal.
2. The Inspector of Police
Vigilance and Anti Corruption,
Namakkal.
3. Central Prison, Coimbatore.



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A.D.JAGADISH CHANDIRA, J.

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