



CRL MP(MD) No.10825 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty Second day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.10825 of 2023

in

CRL A(MD) No.617 of 2023

P.SIVAKUMAR

... Appellant / Sole Accused

Vs

THE STATE OF TAMIL MADU,
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
TIRUCHIRAPPALLI DISTRICT,
(CRIME NO.15/2008)

... Respondent / Complainant

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence and grant bail to the appellant/Sole Accused against the judgment dated 11.07.2023 in Special Case No.38 of 2011 on the file of the Special Court for Trial of cases under the Prevention of Corruption Act, Tiruchirappalli in Crime No.15 of 2008 on the file of the Respondent pending disposal of the instant Criminal Appeal on such terms and conditions.

Prayer in CRL A(MD) No.617 of 2023:

To call for the records of the judgement dated 11.07.2023 in Special Case No.38 of 2011 on the file of the Special Court for Trial of Cases under the Prevention of Corruption Act, Tiruchirappalli in Crime No.15 of 2008 on the file of the Respondent and set aside the same and acquit the appellant / sole accused.



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Order : This criminal miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. PINAYGASH.I, Advocate for the petitioner and of Mr.T.SENTHIL KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition is filed to suspend the sentence imposed by the judgement dated 11.07.2023, learned Special Judge, Special Court for the trial of cases under the Prevention of Corruption Act, Tiruchirappalli, in Special Case No.38 of 2011 in Crime No.15 of 2008 on the file of the respondent police, pending disposal of the Criminal Appeal.

2. The petitioner is the sole accused in the Special Case No.38 of 2011 on the file of the learned Special Judge, Special Court for the trial of cases under the Prevention of Corruption Act, Tiruchirappalli. The case of the prosecution is that the petitioner is said to have committed the offence under Sections 7 and 13(2) r/w 13(1) (d) (i) of the Prevention of Corruption Act, 1988. According to the prosecution, the petitioner is working as a Commercial Inspector in the office of the Junior Engineer, Operation and Maintenance, Tamilnadu Electricity Board, Samayapuram and he is said to have demanded Rs.900/- as illegal gratification to give service connection to the defacto complainant's house stands in the name of his wife on 06.06.2008. The learned Special Judge, Special Court for the trial of cases under the Prevention of Corruption Act, Tiruchirappalli, considered the entire case of the prosecution and



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the defense case, convicted the petitioner for the offence under Section 7 and 13(2) r/w 13(1)(d) (i) of the Prevention of Corruption Act, 1988, and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment for the offence under Section 7 of the Prevention of Corruption Act and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment for the offence under Section 13(2) r/w 13(1)(d) (i) of the Prevention of Corruption Act vide order dated 11.07.2023 in Special Case No.38 of 2011. Aggrieved over the same, the petitioner filed the criminal appeal before this Court. Pending appeal, he filed this petition seeking suspension of sentence imposed by the learned Special Judge.

3. The learned counsel for the petitioner submitted that the case was registered with false allegation. He further submitted that there is no evidence for demand of bribe and acceptance and the prosecution has not been proved the same in accordance with law. He also submitted that there are some arguable points in the criminal appeal and he further submitted that the learned Special Judge has not considered the evidence in proper prospect and hence, the judgment is suffered from perversity and he seeks for the suspension of sentence.

4. This Court has carefully considered the submission made by the learned



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counsel for the petitioner and also perused the materials available on record.

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5. The demand and acceptance has to be proved by the prosecution beyond reasonable doubt. The learned counsel for the petitioner brought to the knowledge of this Court that there are number of material contradictions and infirmities in the prosecution case relating to the demand and acceptance. The Court below failed to properly considered the defence of the petitioner that the amount was received as a part of the loan amount due to one Mr.Thathaiyan and the same was proved through the evidence of PW.6. The said material contradictions and infirmities has to be appreciated in detail at the time of hearing of the criminal appeal. He also brought that there are number of arguable points involved in the criminal appeal. So, he made prima facie case to grant suspension of sentence. Further, since there was no antecedent against the petitioner, this Court is inclined to grant suspension of sentence and accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal with the following conditions:

(i) the petitioner is directed to be enlarged on bail on his executing a 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 Special Judge, Special Court for the trial of cases under the Prevention of Corruption Act, Tiruchirappalli;



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(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) the petitioner shall appear before the trial Court once in a month i.e., on the first working day of every month at 10.30 a.m. pending revision.

sd/-
22/08/2023

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28/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PJL

To

1.The Special Judge,
Special Court for the trial of cases under the Prevention of Corruption Act,
Tiruchirappalli.

2.The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Tiruchirappalli District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1. C.C. to M/S. PINAYGASH.I Advocate SR.No.12576 dated 22.08.2023.



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ORDER
IN
CRL MP(MD) No.10825 of 2023
in
CRL A(MD) No.617 of 2023
Date :22/08/2023

ED/ /SAR- (22/08/2023) 6P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023