



CRL MP(MD) No.14388 of 2023

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

Thursday, the Twelfth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.14388 of 2023

in

CRL A(MD)No.926 of 2023

M.PRABAKARAN

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION DETACHMENT,
MADURAI.

CR NO. 14/2010

... RESPONDENT/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 imposed on the petitioner / appellant / accused in Spl Case No.6/2012 on 14.08.2023 on the file of the learned Special court for trial of Prevention of Corruption Act Cases, Madurai and enlarge him on bail till the disposal of the appeal.

PRAYER in CRL A(MD)No.926 of 2023:

To call for the records relating to the judgment of conviction and sentence passed in Spl.Case.No.06/2012 on 14.08.2023 on the file of the learned Special Court for Trial of Prevention of Corruption Act Cases, Madurai and set aside the same and acquit the appellant/accused from the charges leveled against him.



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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.VENKATESWARAN.R, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the Criminal Appeal., the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Court For Trial of Prevention of Corruption Act Cases, Madurai, in Spl.Case.No.06 of 2012 dated 14.08.2023 and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the defacto complainant's relatives died in a road accident and the post mortem was conducted in the Government Hospital. Therefore, the defacto complainant went to the hospital and seeks post mortem certificate, at that time, the petitioner demanded some amount as bribe. Thereafter, defacto complainant gave a complaint against the petitioner and the case was registered against the petitioner by the respondent police in Crime No.14 of 2010. After completion of investigation formalities, final report was filed before the concerned Court for the offences under Sections 7 and 13(2) r/w 13 (1)(d) of the Prevention of Corruption Act, 1988 and the final report was taken on file in Spl.Case No.6 of 2012.



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3. Before the trial Court, on the side of the prosecution, 15 witnesses have been examined as P.W.1 to P.W.15 and 23 documents were marked as Ex.P1 to Ex.P23. Six materials objects were marked as M.O.1 to M.O.6. On the side of the accused no witnesses was examined and no documents was marked.

4. The learned Special Judge For Trial of Prevention of Corruption Act Cases, Madurai, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 14.08.2023 by convicting the petitioner as follows :

S.No.	Offence	Sentence	Fine	In default sentence
1.	7 of the Prevention of Corruption Act	2 years rigorous imprisonment	Rs.1,000/-	3 months simple imprisonment
2.	13(2) r/w 13(1) (d) of the Prevention of Corruption Act	2 years rigorous imprisonment	Rs.1,000/-	3 months simple imprisonment

Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.



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5. The learned counsel for the petitioners would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the trial Court suspended the sentence till 12.10.2023.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, he strongly opposed to grant suspension of sentence.

7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

9. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-



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(i) The petitioner is directed to be enlarged on bail on condition that the petitioner shall execute 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 Court For Trial of Prevention of Corruption Act Cases, Madurai.

(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 English calendar month at 10.30 a.m., until further orders.

sd/-
12/10/2023

/ TRUE COPY /

/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA
TO

- 1 THE JUDGE,
SPECIAL COURT FOR TRIAL OF PREVENTION
OF CORRUPTION ACT CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION DETACHMENT,
MADURAI.



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3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR THE RECORDS)

+1 CC to M/s.R.VENKATESWARAN, Advocate (SR-15042[I] dated 12/10/2023)

ORDER
IN
CRL MP(MD) No.14388 of 2023
in
CRL A(MD)No.926 of 2023
Date :12/10/2023

SS/VRS/SAR- /19/10/2023/6P/6C

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