



CRL MP(MD) No.15051 of 2023

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

Monday, the Thirtieth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P.(MD)No.15051 of 2023

in

CRL.A.(MD)No.954 of 2023

V.SENTHIL KUMAR

... PETITIONER/ APPELLANT/ ACCUSED

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
SIVAGANGAI DISTRICT.
(CRIME NO.8/2011).

... 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 setence imposed by the Judgment dt.23/8/2023 made in Spl.CC No.71/2014 on the file of Special Judge for Trial of Cases under Prevention of Corruption Act, Sivagangai and enlarge the petitioners on bail pending disposal of the above appeal.

Prayer in CRL A(MD). 954/ 2023 :

To call for the records relating to the judgment dated 23.08.2023 made in Spl.CC No.71/2014 on the file of Special Judge for Trial of Cases under Prevention of Corruption Act, Sivagangai and set aside the conviction and sentence imposed against the Appellant and allow above appeal by acquitting Appellant.



CRL MP(MD) No.15051 of 2023

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.AJMAL ASSOCIATES, Advocate for the petitioner and of MR.B.NAMBI SELVAN, 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 Judge for Trial of Cases Under Prevention of Corruption Act, Sivagangai, in Spl.C.C.No.71 of 2014 dated 23.08.2023 and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the defacto complainant went to VAO office for applying community certificate for her daughter. VAO instructed to meet the petitioner, therefore, the defacto complainant approached the petitioner, 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.8 of 2011. 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.C.C.No.71 of 2014.



CRL MP(MD) No.15051 of 2023

WEB COPY

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 24 documents were marked as Ex.P1 to Ex.P24. 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 Cases Under Prevention of Corruption Act, Sivagangai, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 23.08.2023 by convicting the petitioner as follows :

S.No.	Offence	Sentence	Fine	In default sentence
1.	7 of the Prevention of Corruption Act	3 years rigorous imprisonment	Rs.5,000/-	3 months simple imprisonment
2.	13(2) r/w 13(1) (d) of the Prevention of Corruption Act	3 years rigorous imprisonment	Rs.5,000/-	3 months simple imprisonment



CRL MP(MD) No.15051 of 2023

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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.

5. The learned counsel for the petitioner 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 22.09.2023.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner 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



CRL MP(MD) No.15051 of 2023

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:-

(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 within a period of 10 days from the date of receipt of a copy of this order, each for a like sum to the satisfaction of the learned learned Special Judge for Trial of Cases Under Prevention of Corruption Act, Sivagangai.

(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



CRL MP(MD) No.15051 of 2023

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(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/-
30/10/2023

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

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TO

1 THE SPECIAL JUDGE FOR TRIAL OF CASES UNDER PREVENTION OF
CORRUPTION ACT, SIVAGANGAI.

2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
SIVAGANGAI DISTRICT.

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.M/S.AJMAL ASSOCIATES, Advocate (SR-15676[I] dated
31/10/2023)



CRL MP(MD) No.15051 of 2023

ORDER
IN
CRL.M.P.(MD)No.15051 of 2023
in
CRL.A.(MD)No.954 of 2023
Date :30/10/2023

SSA/JGB/31.10.2023/7P/6C

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