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Crl.M.P.No.1035 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

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THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.M.P.No.1035 of 2024
in Crl.A.No.103 of 2024

M.Jayaprakash

... Petitioner/Appellant

Vs.

The State represented by,
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption Wing,
The Nilgiris District.

(Crime No.1 of 2014/AC/NI)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C., pleased to suspend the sentence imposed in the judgment dated 09.01.2024 made in Spl.C.C.No.38 of 2015 on the file of the learned Assistant Sessions Judge, Special Court for Trial of Prevention of Corruption Act Cases/Sub ordinate Judge, Udhagamandalam, Chennai and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.N.S.Suganthan
for Mr.R.Sivakumar
For Respondent : Mr.S.Santhosh
Government Advocate (Crl.Side)



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant, seeking suspension of sentence of imprisonment, imposed by the Special Court for the trial of Cases under the Prevention of Corruption Act, Udthagamandalam, vide judgment in Spl.C.C.No.38 of 2015 dated 09.01.2024.

2. The conviction and sentence imposed by the trial against the petitioner/appellant is as follows:-

<i>Under Section</i>	<i>Sentence</i>
7 of Prevention of Corruption (Amendment) Act, 1988	three years of rigorous imprisonment and a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment.
13 (2) r/w 13(1)(d) of Prevention of Corruption (Amendment) Act, 1988	four years of rigorous imprisonment and a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment.
The Sentences shall run concurrently	

3. Learned counsel for the petitioner/appellant submitted that the trial Court failed to take into consideration the material contradictions in the



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evidence of the witnesses and the discrepancies in the documents and further, the trial Court, without properly analysing the evidence on record, has found the petitioner/appellant guilty and convicted and sentenced him as stated above. He further submitted that till the time of remand, the name of the petitioner/accused was stated only as Jayapal, whereas, the name of the petitioner is Jayaprakash. He also submitted that the petitioner has deposited the fine amount before the Court concerned. He further submitted that the petitioner has now been confined in Central Prison, Coimbatore for the past 49 days.

4. According to the learned counsel for the petitioner/appellant, 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 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.

5. The Respondent Police has filed an elaborate counter.



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6. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that it is a case of trap that the petitioner was working as a Foreman in TANGEDCO, West Brooke, Kotagiri, the Nilgiris District and he has demanded a sum of Rs.4000/- as illegal gratification from the complainant one Rajaprakash for removing electric conductors from his land and to make alternate arrangements. Based on the complaint given by the said Rajaprakash, the case in Crime No.1/2014/AC/NI was registered on 13.08.2014 and the trap was laid on the same day, during which, the petitioner/accused was caught red-handed while receiving the bribe amount. He further submitted that the prosecution by examining PW1 to PW16 and marking Ex.P1 to Ex.P24 and M.O.1 to M.O.3 has proved the case beyond all reasonable doubts. He also submitted that the respondent has not rebutted the presumption as required under Section 20 of the Prevention of Corruption Act and thereby, the trial Court, after taking into consideration the oral and documentary evidence produced by the prosecution, has rightly found the petitioner/appellant guilty and convicted him as stated above. Hence, he opposed for grant of suspension of sentence and bail.



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

8. 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 a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Assistant Sessions Judge/Sub-ordinate Judge, Special Court for trial of Cases under the Prevention of Corruption Act, Udhagamandalam;
- 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.



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9. Accordingly, the Criminal Miscellaneous Petition stands ordered.

27.02.2024

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Note : Issue order copy today (27.02.2024)

To

1. The Special Court for the Cases under the Prevention of Corruption Act,
Udhagamandalam.
2. The Superintendent,
Central Prison,
Coimbatore.
3. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption Wing,
The Nilgiris District.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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in
Crl.A.No.103 of 2024**

27.02.2024

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