



CRL MP(MD) No.3892 of 2024

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

Thursday, the Twenty Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.3892 of 2024

in

CRL A(MD) No.272 of 2024

PATHAMUTHU

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
MADURAI.
CRIME NO.01/2015.

... RESPONDENT/RESPONDENT

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 appellant by the Judgment dt.05.02.2024 passed in Spl C No.07/2015, on the file of Special Judge, Vigilance and Anti Corruption Court, Madurai and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.272 of 2024 :

To call for the records pertaining to the impugned order of the Learned Special Judge, Vigilance and Anti Corruption Court, Madurai dated 05.02.2024 passed in Spl.C.No.07 of 2015 and set aside the same by allowing this Criminal Appeal.

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 MR.K.RAJESHWARAN, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

<https://www.mmc.tn.gov.in/judis>



CRL MP(MD) No.3892 of 2024

WEB COPY

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Special Judge, Special Court for trial of cases under the Prevention of Corruption Act, Madurai, in Spl.C.C.No.07 of 2015 dated 05.02.2024 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.1 of 2015 on the file of the respondent/Inspector of Police, Vigilance and Anti Corruption Wing, Madurai, for the offences punishable under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act and the same was taken on file in Spl.C.C.No.07 of 2015 before the learned Special Judge, Special Court for trial of cases under the Prevention of Corruption Act, Madurai. The petitioner was convicted and sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.1,500/- (Rupees One Thousand and Five Hundred only) with three months simple imprisonment in case of default for offence under Section 7 of the Prevention of Corruption Act and to undergo five years rigorous imprisonment and to pay a fine of Rs.1,500/- (Rupees One Thousand and Five Hundred only) with three months simple imprisonment in case of default for offence under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act. Challenging the above said conviction and sentence, the petitioner



CRL MP(MD) No.3892 of 2024

has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submitted that the trial Court failed to consider the antecedents of P.W.2 as he has involved in several criminal cases and was a history sheeted and he was murdered in retaliation and the CCTV footage of T.Kallupatti Police Station was not produced before the Court, which shows lack of bonafide on the part of the prosecution. He further submitted that the trial Court failed to consider that the arrest and recovery of amount has not been properly established by the prosecution and the evidence of P.W.2 and P.W.3 are contradictory towards the handling of the amount by the petitioner at the scene of occurrence, which would be fatal to the case of the prosecution. The prosecution has failed to prove the allegation levelled against the petitioner and to corroborate the evidence of prosecution witnesses. He further submitted that the trial court failed to consider the fact that the prosecution had miserably failed to prove its case beyond all reasonable doubts and therefore, prayed for suspension of sentence. He also submitted that the petitioner is in judicial custody from 05.02.2024 and is aged about 65 years.

4. Per contra, Mr.R.Sivakumar, learned Government Advocate (Crl. side) submitted that the prosecution clearly proved the occurrence place of the offence committed by the petitioner and further contended that no one can escape from the



CRL MP(MD) No.3892 of 2024

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sentence awarded in corruption cases. He further submitted that the petitioner is in custody pursuant to the confirmation of conviction by the Court and hence, opposed for allowing this petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner and hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Considering the age of the petitioner and further the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Special Judge, Special Court for trial of cases under the Prevention of Corruption Act, Madurai, in Spl.C.C.No.07 of 2015 dated 05.02.2024 alone is suspended, subject to the following conditions:-

i) 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 Judge, Special Court for trial of cases under the Prevention of Corruption Act, Madurai.



CRL MP(MD) No.3892 of 2024

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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.

iii) The petitioner shall appear and sign before the learned Special Judge, Special Court for trial of cases under the Prevention of Corruption Act, Madurai, on the first working day of every English calendar month at 10.30 a.m., until further orders.

iv) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.

v) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Special Judge, Special Court for trial of cases under the Prevention of Corruption Act, Madurai.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
28/03/2024

/ TRUE COPY /

08/04/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM



CRL MP(MD) No.3892 of 2024

TO

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION WING,
MADURAI.

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

+1 CC to M/s.K.RAJESHWARAN, Advocate (SR-3990[I] dated 28/03/2024)

ORDER IN
CRL MP(MD) No.3892 of 2024
in
CRL A(MD) No.272 of 2024
Date :28/03/2024

RS//SAR-(08.04.2024) 6P 6C
Madurai Bench of Madras High Court is issuing
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