



CRL.M.P.(MD)No.5229 of 2024

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

Thursday, the Sixteenth day of May Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P.VADAMALAI

CRL.M.P.(MD)No.5229 of 2024

in

CRL.A.(MD)No.417 of 2024

P.SWORNAPPAN

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
KANYAKUMARI DETACHMENT @ NAGERCOIL,
V AND AC, CRIME NO.3 OF 2007

... 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 / Accused pending disposal of the Criminal Appeal before this Hon'ble Court against the Judgment in Special Sessions Case No. 1 of 2008 on the file of the Special Judge cum Chief Judicial Magistrate, Kanyakumari District at Nagercoil dated 04.04.2024 in V & AC Crime No.3/2007 on the file of the Respondent Police pending disposal of the Appeal on such termse and conditions as may be deemed and thus render justice.

Prayer in CRL.A.(MD)No.417 of 2024:

Pleased to call for the records pertaining to the Judgement in Special S.C.No.1 of 2008 dated 04.04.2024 rendered by the Special Judge-Cum-Chief Judicial Magistrate, Kanyakumari District at Nagercoil and set aside the same as illegal.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon
<https://www.jmhc.tn.gov.in/judis>



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perusing the petition filed in support thereof and upon hearing the arguments of M/S.LOUIS.S, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Spl.S.C.No.1 of 2008, dated 04.04.2024 passed by the Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District at Nagercoil, and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The case of the prosecution is that the petitioner was working as a Head Constable in Velichanthai Police Station. During his service, he demanded Rs.300/- from the defacto complainant as illegal gratification for sending his passport application along with police verification report to the District Police Office, Kanyakumari at Nagercoil. Based on the complaint given by the defacto complainant, F.I.R. was registered in Crime No.3 of 2007 against the petitioner for the offence under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act 1988. After completion of investigation, final report was filed before the learned Special Judge-cum-Chief Judicial Magistrate, Kanyakumari District at Nagercoil and the same was taken on file in Spl.S.C.No.1 of 2008.

3. Before the trial Court, on the side of the prosecution, 12 witnesses have been examined as P.W.1 to P.W.12 and 42 documents were marked as Ex.P1 to Ex.P42 and



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M.O.1 to M.O.4 were marked. On the defence side, one witness was examined as D.W.1 and no exhibit was marked.

4. The learned Trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 04.04.2024 convicting the petitioner for the offence under Section 7 of the Prevention of Corruption Act 1988 and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for a period of 2 months and for the offence under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act 1988 sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for a period of two months and ordered the sentence of imprisonment to run concurrently. Challenging the above said conviction and sentence, the petitioner 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 the petitioner paid the entire fine amount and the sentence of imprisonment passed against the petitioner has been suspended by the trial Court till 02.05.2024 and there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prays to allow



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this petition.

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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 Trial Court suspended the sentence imposed against the petitioner till 02.05.2024. 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 till the disposal of the appeal on the following conditions:-

(i) The petitioner/ Accused is directed to be enlarged on bail on condition that the petitioner/ Accused shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two



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sureties, each for a like sum to the satisfaction of the Chief Judicial Magistrate Court, Kanyakumari at Nagercoil;

(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/ Accused 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/-
16/05/2024

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17/05/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI
TO

1 THE SPECIAL JUDGE CUM CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

2 THE INSPECTOR OF POLICE
VIGILANCE AND ANTI CORRUPTION,
KANYAKUMARI DETACHMENT @ NAGERCOIL.

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

+1 CC to M/s.LOUIS.S, Advocate (SR-5525[I] dated 16/05/2024)
<https://www.mhc.tn.gov.in/judis>



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ORDER
IN
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in
CRL.A.(MD)No.417 of 2024
Date :16/05/2024

SA/SAR. /17.05.2024/6P/5C

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