



CRL MP(MD) No.13156 of 2024

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

Wednesday, the Fourth day of December Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE K.K. RAMAKRISHNAN

CRL MP(MD) No.13156 of 2024

IN

CRL A(MD) No.1070 of 2024

P.SELVASIVALINGAM

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE,
VIGILANCE AND ANTI CORRUPTION WING,
THOOTHUKUDI DETACHMENT.

CRIME NO.01 OF 2008.

... RESPONDENT/ RESPONDENT/ COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the execution of sentence by granting bail in Special C.C.No.06/2008 dated 14.11.2024 on the file of Special Judge/Chief Judicial Magistrate Court, Thoothukudi, Thoothukudi District pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.1070 of 2024 :

To admit this appeal on file, to call for the records from the lower court in Special C.C.No.06 of 2008 on the file of Special Judge / Chief Judicial Magistrate Court, Thoothukudi District and set aside the judgment dated 14.11.2024 by acquitting the accused and by allowing the Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.PRABHU, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

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



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This Criminal Miscellaneous Petition has been filed to suspend the sentence and fine passed by the learned Special Judge/Chief Judicial Magistrate Court, Thoothukudi, Thoothukudi District, in Spl.C.C.No.6 of 2008 dated 14.11.2024, to enlarge the petitioner on bail till the disposal of the Criminal Appeal.

2.The case of the prosecution is that the petitioner is the sole accused in Spl.C.C.No.6 of 2008. The petitioner in the said Spl.C.C is facing charges under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. As per the allegation, the defacto complainant, his father and his uncle were registered fishermen under the Assistant Director of Fisheries, Fishing Harbour Management, Thoothukudi District. When the father of the defacto complainant is said to have approached the petitioner, who was working an Office Assistant in the office of the Assistant Director of Fisheries (Marine), Thoothukudi District, for getting Diesel Permit Book, the petitioner demanded a sum of Rs.1,500/- as bribe. Hence, the complaint.

3.On receipt of the complaint, the respondent police registered a case in Crime No.1 of 2008 for the offences under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

4.The respondent police, after completing the investigation, has laid a final report for the offences under Sections 7, 13(2) r/w 13(1)(d) of Prevention of



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Corruption Act, 1988, before the learned Special Judge/Chief Judicial Magistrate Court, Thoothukudi, Thoothukudi District. The learned Special Judge has taken the case on file in Spl.C.C.No.6 of 2008 and thereafter, conducted trial as per procedure stated in code of Criminal Procedure.

5.During the trial, the prosecution has examined 18 witnesses as P.W.1 to P.W.15 and exhibited 21 documents as Ex.P.1 to Ex.P.21 were marked. On the side of the defence, D.W.1 to D.W.3 were examined and no document was marked and M.O.1 to M.O.6 were marked.

6.The learned Special Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted the petitioner for the offence under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, and sentenced him to undergo 3 years simple Imprisonment and to pay a fine of Rs.5,000/- in default, to undergo 3 months Simple Imprisonment for the offence under Section 7 of Prevention of Corruption Act, 1988, and also sentenced him to undergo 3 years simple Imprisonment and to pay a fine of Rs.5,000/- in default, to undergo 3 months Simple Imprisonment for the offence under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

7.Thereafter, the trial Court has granted interim suspension of sentence to the petitioner till 13.12.2024.



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8. 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.

9. The learned Counsel for the petitioner submitted that the petitioner is not a competent authority to issue the diesel permit book since he was working as an Office Assistant. Therefore, there was no possibility to demand bribe. He would further submit that a number of contradictions between the evidences regarding the alleged occurrence. Even the allegation alleged against the petitioner is that he only pulled her hands. In the said circumstance, the offence is not made out against the petitioner. Hence, he seeks to grant of suspension of sentence to the petitioner.

10. 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.

11. This Court has carefully considered the rival submissions by either side and also perused the materials available on record.

12. Considering the facts and circumstances of the case and also considering the fact that the trial Judge has already granted interim suspension of sentence to the petitioner, and there is no antecedent against the petitioner and certain infirmities, inconsistencies and contradictions in material particulars brought to the knowledge



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of this Court, this Court prima facie feels 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. Hence, this Court is inclined to grant of suspension of sentence.

13. Accordingly, the relief of suspension of sentence is granted to the petitioner on 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 Special Judge/Chief Judicial Magistrate Court, Thoothukudi, Thoothukudi District.

(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 concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
04/12/2024

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/12/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE SPECIAL JUDGE / CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI.

2 THE INSPECTOR OF POLICE, VIGILANCE AND ANTI CORRUPTION WING,
THOOTHUKUDI DETACHMENT, THOOTHUKUDI.

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

+1 CC to M/s.K.PRABHU, Advocate (SR-14944[I] dated 05/12/2024)

ORDER

IN

CRL MP(MD) No.13156 of 2024

IN

CRL A(MD) No.1070 of 2024

Date :04/12/2024

RS/VR/SAR-(11.12.2024) 6P 5C

Madurai Bench of Madras High Court is issuing
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