

BAIL SLIP

That the Petitioner/Appellant/Accused Viz. K.Gopal S/o.Kannayiram @ Kannappan was directed to be released on Bail as per order dated 19/12/2014 made in m.P.No.1 of 2014 in CrI.R.C.No.1271/14 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-04-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1271 of 2014

K. Gopal

... Petitioner

Versus

State represented by
Inspector of Police
C.C.I.W.C.I.D.
Thiruvannamalai
Thiruvannamalai District

... Respondent

Petition filed under Section 397 and 401 of Criminal Procedure Code against the Judgment dated 22.09.2014 made in Criminal Appeal No.162 of 2010 on the file of the I Additional District and Sessions Judge, Vellore, Vellore District confirming the Judgment dated 06.07.2010 made in C.C. No. 194 of 2007 on the file of Judicial Magistrate No.II, Vellore, Vellore District

For Petitioner : Mr. E. Kannadasan

For Respondent : Mr. R. Prathap Kumar
Government Advocate (CrI.side)

ORDER

The petitioner was employed as the Secretary of Arapakkam Agricultural Cooperative Bank from 13.12.1991. During the course of such employment, it is alleged that the petitioner did not give credit to the sum of Rs.9,644/- remitted by one Arumugam on 04.08.1995 towards the loan he availed with the bank. It is further alleged that on the same day, the petitioner obtained the signature of a borrower in a receipt to show that a sum of Rs.5,250/- was paid to such borrower towards loan, however, the amount was not paid by the petitioner to the borrower. In this fashion, it is alleged that

the petitioner had embezzled and misappropriated a total sum of Rs.40,224/- thereby caused loss to the society. On coming to know about the above transaction, a case in Crime No. 6 of 2015 came to be registered against the petitioner by the respondent police for the offences under Sections 408 and 477 (a) of IPC.

2. After completion of investigation, a charge sheet was filed by the respondent police and it was taken on file as C.C. No. 194 of 2007 by the learned Judicial Magistrate No.II, Vellore. During the course of trial, as many as 10 witnesses were examined by the prosecution and Exs. P1 to P33 have been marked. On behalf of the revision petitioner, neither any witness was examined nor document was marked. The trial court, on appreciation of the oral and documentary evidence, rendered a judgment of conviction convicting the petitioner for the offences under Section 408 and 477 (a) of IPC and sentenced him to undergo rigorous imprisonment for a period of six month for each of the offence with fine of Rs.500/- under each count, totalling a sum of Rs.1,000/- failing which he was directed to undergo one month simple imprisonment. Such sentence imposed on the petitioner under two counts was ordered to run concurrently.

3. Assailing the judgment of conviction passed by the trial court, the petitioner filed Criminal Appeal No. 162 of 2010 and the same was also dismissed by the appellate Court on 22.09.2014. This revision is filed as against the aforesaid orders passed by the courts below.

4. The learned counsel for the petitioners would contend that he is not arguing the revision on merits, but he would confine his argument with respect to reduction of sentence alone. According to the learned counsel for the petitioner, the petitioner had remitted the entire amount to the bank. Further, the petitioner lost his employment and he is without any means to survive. It is further stated that the petitioner had undergone imprisonment for about 25 days. The petitioner is aged 57 years and suffering from age old ailments. In those circumstances, the learned counsel for the petitioner prayed this Court to reduce the sentence imposed on the petitioner to the period already undergone by him.

5. On the above contention, I heard the learned Government Advocate appearing for the respondent and perused the material records.

6. Having regard to the contention of the counsel for the petitioner that the petitioner lost his employment, paid the entire amount to the bank, suffered incarceration for more than 25 days, presently aged 57 years and suffering from age old ailment, I am inclined to reduce the sentence imposed on him. Having regard to the above, I hold that the sentence imposed on the petitioner by the courts below to undergo six months rigorous imprisonment under two counts can be reduced in to one of the period already undergone by

him. However, having regard to the facts and circumstances of the case, I am inclined to enhance the fine amount imposed by the courts below from Rs.500/- for each count, totalling Rs.1,000/- to Rs.5,000/- under each count totalling Rs.10,000/-. As it is represented that the petitioner had paid the fine amount of Rs.1,000/-, he is directed to remit the remaining sum of Rs.9,000/- before the trial court and such sum shall be withdrawn by the defacto complainant/bank. The petitioner is directed to pay the sum of Rs.9,000/- within a period of two months from the date of receipt of a copy of this order. In case, the petitioner fails to pay the amount as ordered, the benefit of this order will not enure to him and consequently the orders passed by both the courts below shall stand automatically restored. In such event, the trial court shall take appropriate steps as are necessary to secure the presence of the petitioner to undergo the remaining period of sentence.

7. In the result, the Criminal Revision Case is partly allowed.

Sd/-

Assistant Registrar(CO)

//True Copy//

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Sub Assistant Registrar

To

1. The I Additional District and Sessions Judge
Vellore, Vellore District
2. - do - Through The Principal District & Sessions Judge,
Vellore.
3. The Judicial Magistrate No.II
Vellore, Vellore District
4. -do- Through The chief Judicial Magistrate, Vellore
5. The Inspector of Police,
C.C.I.W.C.I.D
Thiruvannamalai.
6. The Public Prosecutor,
High Court, Madras

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.22370

Cr1.R.C No. 1271 of 2014

RJ(CO)
CA(08/05/2015)