

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Second day of September Two Thousand

Seventeen

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL MISCELLANEOUS PETITION No.10915 of 2017

IN CRL A.547/2017

S.JAGANATHAN,

[PETITIONER]

Vs

UNION OF INDIA

[RESPONDENT]

REP.BY THE INSPECTOR OF POLICE,
CBI/EOW, CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.547/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed by the judgment dated 12.07.2017 in C.C.No.7 of 2002 on the file of the XI Addl Spl Judge (CBI Cases relating to Bank and Financial Institutions), Chennai and enlarge the petitioner on bail, pending disposal of the above Crl.A.547/2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A No.547/2017 on the file of the High Court and upon hearing the arguments of MR. B. KUMAR, Senior Counsel for M/S.K.P.ANANTHA KRISHNA, Advocate for the petitioner and of MR. K. SRINIVASAN, Special Public Prosecutor for CBI Cases on behalf of the Respondent the court made the following order:-

The petitioner herein is the 7th accused in C.C.No.7 of 2002 on the file of the XI Additional Special Judge for CBI Cases, Chennai, wherein the trial Court has sentenced and convicted the petitioner to undergo two years R.I and to pay a fine of Rs.20,000/- i/d to undergo S.I for 4 months for the offences under Sections 120-B r/w 419, 420, 467, 468 and 471 r/w 468 IPC and Sec. 13(2) r/w 13(1)(d) of PC Act 1988, and seven years R.I for each count and to pay a fine of Rs.1,00,000/- for each counts i/d to undergo S.I for 6 months for each counts for the

offences under Section 13(2) r/w 13(1)(d) of PC Act 1988 (6 counts) and 7 years R.I and to pay a fine of Rs.1,00,000/- i/d to undergo S.I for 6 months for the offence under Section 420 IPC and two years R.I for each count and to pay a fine of Rs.1,00,000/- for each counts, i/d to undergo S.I for 4 months for each counts for the offences under Section 471 r/w 468 IPC (2 counts). Aggrieved by the said order of conviction and sentence, the petitioner has filed the criminal appeal, pending appeal the petitioner seeks for suspension of sentence.

2. The contention of the petitioner is that the trial court judgment bristles with infirmity and error due to improper appreciation of evidence. The petitioner has been wrongly found guilty and convicted. Since he has fair chance of success, he may be released on bail pending disposal of the appeal. Further, he contends that he is now 67 years old, the error of judgment while discharging his duty without any culpable state of mind ought to have taken note by the trial Court, before holding him guilty.

3. The learned Public Prosecutor has filed a detailed counter wherein he has submitted that due to the overt act of the petitioner who was the Senior Manager of the Indian Overseas Bank, Tower Branch, Anna Nagar, credit facility was extended to one R.Mohan Patel(A1). The bills of exchange were negotiated and letter of credit was discounted improperly. Based on fictitious and fabricated documents in the name of Shanmugam (A5) and others, credit facility was extended to nearly Rs.5 crores. The trial court has held that the petitioner herein fabricated documents such as partnership deed of M/s.K.B.Overseas by including the name of K.V.Shanmugam (A4) by impersonation and recommended sanction of credit facility to M/s.K.B.Overseas operated by A1 Mohan Patel.

4. The learned Special Public Prosecutor seriously objects for granting bail on the ground that the petitioner with full knowledge had forged and fabricated FDR's and GR forms and documents furnished as collateral security to avail the loan. Due to his grave misconduct and fraudulent act, the bank has incurred financial loss of more than Rs.5 crores. The trial court has rightly held the petitioner guilty and sentenced him to undergo 7 years R.I for the offences under Section 420 IPC and Section 13(2) r/w 13(1)(d) of PC Act 1988. Therefore, considering the gravity of the crime committed by the petitioner and proved by the prosecution, Court shall not show any sympathy to him.

5. The learned counsel appearing for the petitioner submits that the co-accused had already been granted bail and this petitioner is ready to abide by any condition imposed by this Court, if bail is granted to him. The learned counsel

appearing for the petitioner further submits that he is even ready for final disposal of the appeal itself if date is fixed and till then the petitioner shall be released on bail so as to effectively pursue the appeal.

6. For the said plea, the learned Special Public Prosecutor submits that interim suspension of sentence shall be granted for three months on stringent condition and meanwhile, the appellant/petitioner shall get along with this appeal. It is also submitted by the learned Public Prosecutor that A1 who was in abscondence pending trial had been secured only recently and it is necessary to dispose of the appeal at the earliest so that the original records may be sent back to the trial court to try the first accused in the split up case.

7. Considering the rival submissions, interim suspension of sentence for a period of three months from today is granted on condition that the petitioner shall deposit Rs.10,00,000/- (Rupees Ten lakh) and furnish two sureties for the likesum subject to the satisfaction of the trial court. On release of bail the appellant/accused shall report before the trial court on 1st and 3rd Monday of every month until further orders.

8. The registry is directed to call for the records from the trial court and prepare the typesets. Post the matter for final hearing on 11.12.2017.

-sd/-

22/09/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE XI ADDITIONAL SPECIAL
JUDGE FOR CBI CASES, CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 UNION OF INDIA
REP.BY THE INSPECTOR OF POLICE, CBI/EOW,
CHENNAI.

+1 C.C. to M/S.K.P.ANANTHA KRISHNA Advocate on payment of
necessary charges Sr.No.18511

Order
in
CRL MP.10915/2017
in
CRL A.547/2017

Date :22/09/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MD: 25/09/2017