

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fourteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL MISCELLANEOUS PETITION No.11687 of 2017

IN CRL A.593/2016

BHUSHAN KUMAR,

[PETITIONER]

Vs

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

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to modify the condition imposed on the petitioner in Crl.MP.No.8160 of 2016 in Crl.A.No.593 of 2016 on the file of this Honble Court deem fit proper any other order in the circumstances of this case.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of MR. V. PRAKASH Senior Counsel for M/S.K.P.ANANTHA KRISHNA, Advocate for the petitioner and of MR. K. MATHAN. SRINIVASAN, Spl. Public Prosecutor, for CBI Cases, on behalf of the Respondent the court made the following order:-

This petition has been filed praying to modify the condition imposed on the petitioner by this Court in Crl.M.P.No.8160 of 2016 in Crl.A.No.593 of 2016, dated 24.08.2016.

2. The facts of the case is that the petitioner was convicted in a Bank Fraud Case and sentenced to undergo Rigorous Imprisonment for a period of four years and imposed to pay a fine of Rs.1,00,00,000/- (Rupees One Crore only). Challenging the said conviction and sentence, criminal appeal has been preferred by the petitioner and suspension of sentence was sought for in the said appeal.

3. Earlier, on 24.08.2016, this Court has imposed a condition that the petitioner shall deposit a sum of Rs.40,00,000/- in three instalments. The first instalment of

Rs.5,00,000/- shall be paid on the date of execution of bond before the trial court; the second instalment of Rs.10,00,000/- shall be paid within a period of four months from 24.08.2016 and the third instalment of Rs.25,00,000/- shall be paid within a period of four months thereafter.

4. The petitioner's case is that since he is not in a position to mobilise the funds, he has paid only a sum of Rs.5,00,000/- at the time of executing the bond and released on bail. In respect of balance amount, the petitioner has tendered only a sum of Rs.5,00,000/-, the trial court has not accepted it. Therefore, the petitioner approached this Court again for modification and extension of time, wherein this Court has shown some indulgence to the petitioner by giving a direction that the petitioner shall pay the balance amount of Rs.35,00,000/- within a period of six months from 16.03.2017. The said six months period is likely to be expired tomorrow i.e. on 15.09.2017. The petitioner has not come forward to deposit any money.

5. The learned counsel for the petitioner submitted that the petitioner's gratuity may be attached as a security, since the petitioner is not able to mobilise the fund. Since there is some legal impediment in attaching the retirement benefits of a public servant, this Court is not inclined to accept the offer made by the petitioner.

6. However, taking note of the submission made by the learned counsel appearing for the petitioner, earlier order of this Court dated 16.03.2017 is modified to the following effect:

(i) The petitioner is directed to deposit a sum of Rs.5,00,000/- (Rupees five lakhs only) to the credit of C.C.No.25 of 2009 on the file of XI Additional Sessions Judge (Special Judge for CBI Cases relating to Banking and Financial Institutions), Chennai within a period of one week from today.

(ii) For the balance amount of Rs.30,00,000/-, the petitioner shall furnish a security of unencumbered immovable property stands in his name worth about more than Rs.30,00,000/- before the trial court within a period of four weeks from today, subject to the satisfaction of trial court.

7. In case of any failure to comply the said conditions, no further petition will be entertained on behalf of the petitioner and the respondent can move this Court for further course of action. Accordingly, this petition is modified.

-sd/-
14/09/2017

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, ADDL. SESSIONS
JUDGE, (SPECIAL JUDGE FOR CBI CASES RELATING
TO BANKING AND FINANCIAL INSTITUTIONS, CHENNAI

2 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES, HIGH COURT, MADRAS

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

C.C. to M/S.K.P.ANANTHA KRISHNA Advocate on payment of
necessary charges

Order
in
CRL MP.11687/2017
in
CRL A.593/2016

Date :14/09/2017

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MD: 14/09/2017