

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Seventh day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.10460 of 2018

IN CRL A.474/2018

1 S.MUTHUKUMARASAMY, [PETITIONERS/APPELLANTS/ACCUSED]
2 S.C.KRISHNA BAI,

Vs

STATE REP BY:- [RESPONDENT]
INSPECTOR OF POLICE,
SPE:CBI/ACB, CHENNAI.
[RC MA1 2006-A-0026]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.474 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on them by the Learned XIV Additional Special Court for CBI Cases, Chennai dated 26.06.2018 made in C.C.No.12 of 2007 on his file and enlarge them on bail pending disposal of the above CRL.A.474/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.474 of 2018 on the file of the High Court and upon hearing the arguments of MR.C.S.S.PILLAI, 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 petition has been filed to suspend the sentence of imprisonment imposed in the judgment dated 26.06.2018 made in C.C.No.12 of 2007 on the file of the learned XIV Additional Special Court for CBI Cases, Chennai, pending disposal of the appeal.

2. The petitioners/A-1 and A-2 herein are the accused in Special Case No.12 of 2007 on the file of the learned XIV Additional Special Court for CBI Cases, Chennai. They were found guilty of the offences u/s. 13(2) r/w u/s. 13(1) (e) of Prevention of Corruption Act, 1988 and u/s.109 IPC r/w u/s.13(2) r/w 13(1) (e) of Prevention of Corruption Act, 1988 and they have been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	For the offences u/s.13(2) r/w Section 13(1) (e) of P.C Act, 1988.	4 years R.I and pay a fine of Rs.1,00,000/- in default to undergo S.I for one year for A-1
2.	For the offences u/s.109 of IPC r/w Section 13(2) r/w Section 13(1) (e) of P.C Act, 1988.	4 years R.I and pay a fine of Rs.1,00,000/- in default to undergo S.I for one year for A-2

Aggrieved against the same, the petitioners have preferred this appeal along with the petition for suspension of sentence.

3. The case of the prosecution is that the petitioner/A-1 was working as the Inspector of Central Excise Group B till 06.12.1996 and promoted as a Superintendent of Central Excise, Group B since then at Chennai, functioning as a public servant in the above capacity, during the period from 01.01.1996 to 23.03.2006 he acquired movable and immovable assets/pecuniary resources in name of himself and also in the name of the petitioner/A-2 to the extent of Rs.40,21,509/- and the petitioner/A-2 abetting her husband/A-1 who is a public servant and thereby, A1 and A2 committed offences under Section 120B IPC r/w 13(2) r/w 13(1) (e) of Prevention of Corruption Act, 1988.

4. The learned appearing for the petitioners would submit that the petitioners are senior citizens and that they have got good case on merits and that there are several arguable points and would submit that there is no possibility of the appeal being taken up immediately for final hearing. He would further submit that the petitioners have given a bank guarantee to the tune of Rs.40,21,509/- in favour of the respondent which is valid till 05.04.2021 and that the petition for suspension of sentence filed on behalf of the petitioners may be considered. He would also submit that the fine amount has been remitted before the trial court.

5. The learned Special Public Prosecutor appearing for CBI would submit that bank guarantee is only valid upto 05.04.2021 and that the properties involved in the case are liable for confiscation and thereby some stringent condition may be imposed that the properties involved in the case shall not be disposed till disposal of the appeal.

6. At this juncture the learned senior counsel for the petitioners would submit that the petitioners are under incarceration and once they come out on bail they would file necessary affidavits before the trial court undertaking not to alienate or encumber the properties involved in the case.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels that there are arguable points involved in the appeal and that there is no likelihood of the appeal being taken up in the near future, I am inclined to suspend the substantive sentence of imprisonment alone.

8. Accordingly, the sentence of imprisonment imposed on the petitioners by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioners are ordered to be enlarged on bail on them executing a bond for Rs.50,000/- [Rupees Fifty thousand only] each with two sureties each for a like sum to the satisfaction of the learned XIV Additional Special Court for CBI Cases, Chennai and on further condition that the petitioners shall report before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders. The petitioners shall also file an affidavit of undertaking before the trial Court that they will not alienate or encumber the properties involved in this case till the disposal of the Crl.A.No.474 of 2018 pending on the file of this Court.

-sd/-
07/09/2018

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.

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TO

1 THE XIV, ADDITIONAL SPECIAL
COURT FOR CBI CASES, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

3 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN, PUZHAL, CHENNAI.

4 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES, HIGH COURT, MADRAS.

5 STATE REP BY:-
INSPECTOR OF POLICE,
SPE:CBI/ACB, CHENNAI.

+2 C.C. to M/S.C.S.S.PILLAI Advocate on payment of necessary
charges-Sr.17059

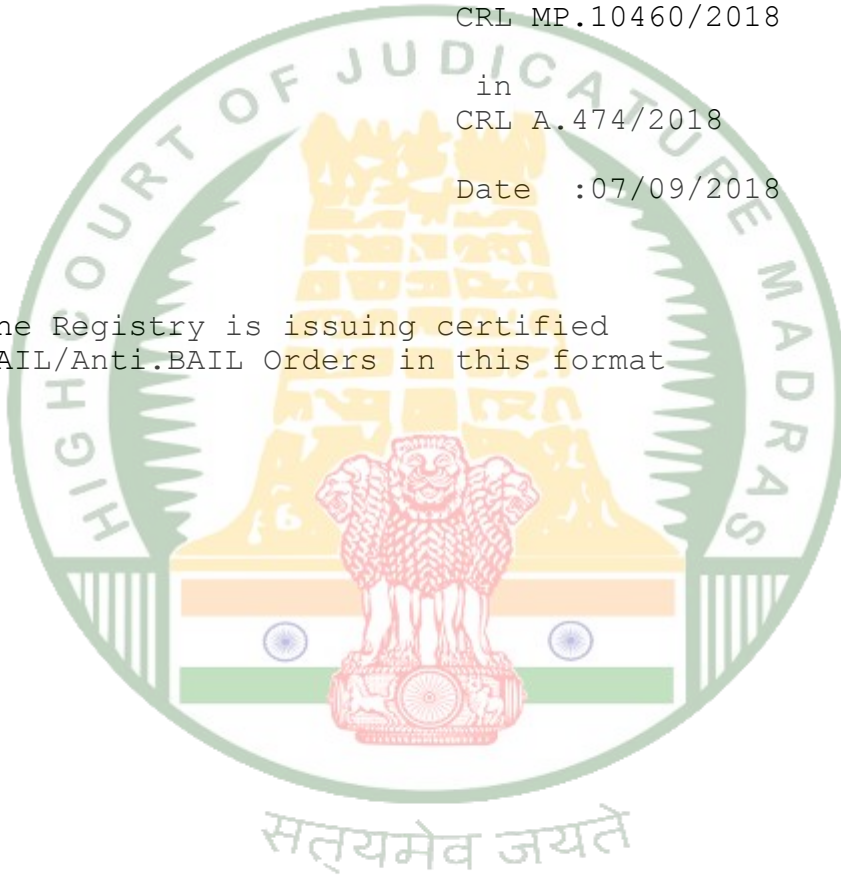
Order

in
CRL MP.10460/2018

in
CRL A.474/2018

Date :07/09/2018

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