

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Seventh day of September Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.11994 of 2018

IN CRL A.546/2018

1 B.RAMESH, [PETITIONERS/APPELLANTS/ACCUSED]
2 B.SURESH,
3 SMT.S.LAKSHMI,

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
CBI/SPE/ACB/CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.546 OF 2018 on the file of the High Court, the High Court will be pleased to enlarge them on bail by suspending the sentence imposed on them by the Learned XI Additional Special Judge for CBI CASES, (for Banking and Financial Institutions) by order dated 31.08.2018 in C.C.No.40 of 2010.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.546 of 2018 on the file of the High Court and upon hearing the arguments of M/S.R.VIJAYARAGHAVEN, 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 31.08.2018 made in C.C.No.40 of 2010 on the file of the learned XI Additional Special Judge for CBI Cases, (for Banking and Financial Institutions), Chennai pending disposal of the appeal.

2. The petitioners/appellants herein are the accused No.3, 4 and 5 in C.C.No. 40 of 2010 on the file of the learned XI Additional Special Judge for CBI Cases, (for Banking and Financial Institutions), Chennai. The petitioner's were found guilty of the offences u/s. 120B IPC r/w 420 IPC and Sec.13(2) r/w 13(1)(d) of Prevention of Corruption Act 1988 and they have been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 120B IPC r/w 420 IPC and Sec.13(2) r/w 13(1) (d) of P.C Act 1988.	3 years R.I each and fine of Rs.5,00,000/- each in default to undergo S.I for 1 year each.
2.	Section 420 IPC	3 years R.I each and fine of Rs.5,00,000/- each in default to undergo S.I for 1 year each.

Aggrieved against the same, the petitioners/appellants have preferred this appeal and also filed the petition for suspension of sentence.

3. The case of the prosecution is that the first accused Karunakaran was serving as Senior Manager at Canara Bank, Perungudi Branch during 2007-2008. The appellants/accused No. 3, 4 and 5 along with another brother namely, the second accused being the partners of M/s.Hobby Screens in conspiracy with the first accused, and thereby the first accused without the approval and permission, granted temporary O.D. facilities to the accused No.2 to 5 in the contravention of the Banking Rules on various dates. The accused No.2 to 5 who had separate accounts in the said Canara Bank under the same branch, transferred O.C.C. account to their individual account without any business transaction in violation of the rules and thereby, the Bank sustained wrongful loss and the accused made wrongful gain. As far as the first accused is concerned, he being the public servant he abused his position and granted loans to the accused No.2 to 5 in violation of the rules and thereby, the accused committed the aforesaid offences.

4. The learned counsel for the petitioners/appellants would submit that the petitioners/appellants have been convicted for a period of 3 years and that the trial court had suspended the sentence till 28.09.2018. He would further submit that the petitioners/appellants have also deposited the entire fine amount of Rs.30,00,000/- before the trial court. The learned counsel for the petitioners/appellants would submit that there are several arguable points on law and also on facts and would also submit that the petitioners/appellants have got a good case on merits and contending that it will take time for final hearing of the appeal would pray that the substantive sentence imposed against the petitioners may be suspended.

5. The learned Special Public Prosecutor for CBI Cases, would submit that the sentence of the petitioners/appellants have been suspended by the trial court till 28.09.2018.

6. Taking into consideration the submissions made by the learned counsels, the substantive sentence of imprisonment alone is suspended.

7. Hence, the sentence of imprisonment imposed on the petitioners/appellant by the trial Court alone is hereby suspended

till the disposal of the appeal and the petitioners/appellants are ordered to be enlarged on bail on oath of them executing a bond for Rs.50,000/- [Rupees Fifty thousand only] with two sureties each for a like sum to the satisfaction of the learned XI Additional Special Judge for CBI Cases, (for Banking and Financial Institutions), Chennai and on further condition that the petitioner's shall report before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
27/09/2018

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.

TO

1 THE XI, ADDL. SPECIAL JUDGE
FOR CBI CASES, (FOR BANKING AND FINANCIAL
INSTITUTIONS), CHENNAI.

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

3 THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
CBI/SPE/ACB/CHENNAI.

+1 C.C. to M/S.R.VIJAYARAGHAVEN Advocate on payment of necessary charges-Sr.18294

Order

in
CRL MP.11994/2018

in
CRL A.546/2018

Date :27/09/2018

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THS : 27.09.2018

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