

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Thirty First day of July Two Thousand Eighteen

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL MISCELLANEOUS PETITION No.9206 of 2018

IN CRL A.397/2018

R.H.WHEELER

[PETITIONER / APPELLANT]

Vs

STATE BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
RC NO.3/E/2001,
CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.397/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in C.C.No.13 of 2003 on the file of XI Additional Special Sessions Judge, CBI Cases, Chennai and to grant bail to the petitioner pending disposal of the CRL A.397/2018 [IN CRL.MP.NO.9206 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.397/2018 on the file of the High Court and upon hearing the arguments of M/S.V.RAMAMURTHY, 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/appellant arrayed as third accused in C.C.No.12 of 2003 along with the other accused was found guilty by the learned XI Additional City Civil and Sessions Judge, Chennai. He has been convicted for the offences under Section 120(B) r/w 420, 409 I.P.C and sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.5,00,000/-, in default to undergo one year Simple Imprisonment; convicted under Section 13(1)(d) r/w 13(2) of Prevention of Corruption Act and sentenced to undergo five years Rigorous Imprisonment together with fine of Rs.5,00,000/-, in default to undergo another one year Simple Imprisonment; convicted under Section 409 I.P.C and sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.5,00,000/-, in default to undergo one year Simple Imprisonment vide impugned judgment dated 22.06.2018. Total fine amount imposed on the petitioner/appellant is Rs.15,00,000/-. However, the period of sentence for each offences ordered to run concurrently and also

granted set-off under section 428 Cr.P.C.. The petitioner prays for suspension of sentence.

2 The learned counsel appearing for the petitioner/appellant submits that being the bank official, he had bonafidely discharged his duty in sanctioning the loan, though the prosecution has come out specifically with the allegations that he has conspired with other accused and cheated the bank to the tune of Rs.3.89 crores. Presently, auction for recovery was initiated through Debts Recovery Tribunal and Bank had recovered the loan. The learned counsel for the appellant would submit that the trial Court judgment requires reconsideration. Therefore, pending disposal of the appeal, the sentence may be suspended. It is also submitted by the learned counsel that the petitioner/appellant has retired from service, he has no money to pay the fine amount, he has so far not paid the fine amount of Rs.15,00,000/- imposed on him.

3 Perusal of the record indicates that the loan availed by A2 through his company has been discharged, subsequently, by putting the property of A2 in public auction. The other accused has already been granted suspension of sentence on condition.

4 Heard the learned counsel for the petitioner as well as the learned Special Public Prosecutor. Counter and connected records are also perused.

5 Taking note of the submission made by the learned counsel for the petitioner/appellant, the substantive sentence of imprisonment alone is suspended on the following condition. The petitioner is directed to pay a part of the fine amount Rs.2,00,000/-, (Rupees two lakhs only) and on such payment; and the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees five lakhs only) with two sureties of like sum to the satisfaction of the learned XI Additional City Civil and Sessions Judge, Chennai. On release, the petitioner is directed to pay a further sum of Rs.3,00,000/- towards fine on or before 30.08.2018. The petitioner shall appear before the said Court on the first Friday of every English Calendar Month at 10.30 a.m. until further orders, any breach in this condition shall automatically rendered the bail condition cancelled.

-sd/-
31/07/2018

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 ADDITIONAL CITY CIVIL
AND SESSIONS JUDGE, CHENNAI.

2 THE XI ADDITIONAL SPECIAL
SESSIONS JUDGE CBI CASES, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
RC NO. 3/E/2001,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.V.RAMAMURTHY Advocate on payment of necessary
charges SR NO.14246

Order

in
CRL MP.9206/2018

in
CRL A.397/2018

Date :31/07/2018

From 7.2.2001 the Registry is issuing certified
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MK:31/07/2018