

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Thursday, the First day of November Two Thousand Eighteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13160 of 2018

in CRL.A.NO.595/2018

P.PANDIAN

[ APPELLANT/PETITIONER/ACCUSED]

Vs

THE STATE REP BY  
ITS THE INSPECTOR OF POLICE  
SPE CBI/ACB, CHENNAI.  
RC MA 1 2009-A 0022.

[ RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.595 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the Hon'ble Court C.C.No.37 of 2009 dated 26.09.2018, on the file on the file of 14th Addl Special Court, for CBI pending disposal of Crl.A.No.595/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.595 of 2018 on the file of the High Court and upon hearing the arguments of M/S.L.INFANT DINESH, 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 26.09.2018 made in C.C.No.37 of 2009 on the file of the learned 14<sup>th</sup> Additional Special Judge (CBI Cases), Chennai, pending disposal of the appeal.

2. The petitioner herein is the accused in C.C.No.37 of 2009 on the file of the learned 14<sup>th</sup> Additional Special Judge (CBI Cases), Chennai. He has been found guilty of the offences u/s. 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988. The petitioner has been convicted and sentenced as under:

| S.No. | Conviction                                                    | Sentence                                                                      |
|-------|---------------------------------------------------------------|-------------------------------------------------------------------------------|
| 1.    | U/s. 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 | 4 years R.I and pay a fine of Rs.3,00,000/- in default to undergo 1 year S.I. |

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

3. The case of the prosecution is that the accused, who is working as an Enforcement Officer in Employees Provident Fund Organization, Regional Office, Chennai, had amassed movable and immovable assets during the check period from 01.01.2002 to 30.09.2006, in his name and his family members to the extent of Rs.25,16,295/-, which works out to 44.16% disproportionate to his known sources of income for which the accused could not satisfactorily account for and thereby the accused was charged and tried for having committed offences under Section 13(2) r/w 13(1) (e) of Prevention of Corruption Act, 1988, and after conclusion of trial he was convicted as stated above.

4. Mr.L.Infant Dinesh, the learned counsel appearing for the petitioner/appellant would submit that there are several infirmities and inconsistencies in the evidence of the prosecution and that the trial Court had not properly assessed the materials and evidence let in by the prosecution and the evidence let in by way of defense. He would further submit that the calculation done is not in accordance with the established procedures. He would further submit that the petitioner has filed an affidavit stating that the inventory of the bank locker No.222, held in the name of his wife maintained in Indian Bank, Neelankarai Branch is D-4 and Ex.P.41, shows that the value of the jewels found in the locker is nearly about 500 grams and worth of Rs.15 lakhs, which also includes jewels purchased before and after the check period, and further he would submit that the jewels are still in the custody of the Court and the petitioner has not filed any application seeking return of property. He would further submit that the petitioner has filed an undertaking that he will not encumber the properties involved in the case. Further he would submit that it is more fully described in the Ex.P.7, that the value of the house property is worth about Rs.32 lakhs and that the petitioner undertakes that he will not dispose or alienate the property during the pendency of the appeal. He would further submit that the petitioner is aged about 67 years and would seek for suspension of sentence.

5. Mr.K.Srinivasan, learned Special Public Prosecutor for CBI Cases appearing for the respondent opposed to grant suspension of sentence stating that the petitioner/accused had possessed disproportionate assets to the tune of Rs.14,49,639/- for 29.35% and that the respondent has also proved the case through oral and documentary evidence.

6. At this juncture, the learned counsel for the petitioner would submit that fine amount of Rs.3 lakhs has already deposited before the trial Court on 26.09.2018 and would pray that any stringent condition may be imposed on the petitioner.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels on either side, this Court is inclined to suspend the substantive sentence of imprisonment alone.

8. Accordingly, the substantive sentence of imprisonment imposed on the petitioner by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on 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 14<sup>th</sup> Additional Special Judge (CBI Cases), Chennai, and on further condition that the petitioner 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/-

01/11/2018

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 14TH ADDITIONAL SPECIAL  
JUDGE, (CBI CASES ) CHENNAI.

2 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAL.

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

4 THE INSPECTOR OF POLICE  
SPE CBI/ACB, CHENNAI.

+1 C.C. To M/S. L.INFANT DINESH, Advocate on payment of  
necessary charges-Sr.20512

WEB COPY

Order

in

CRL MP.13160/2018

in CRL.A.NO.595/2018

Date :01/11/2018

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

THS : 01.11.2018

<https://hcservices.ecourts.gov.in/hcservices/>