

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fifteenth day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.3801 of 2019

IN CRL A.142/2019

A.RAMALINGAM

[PETITIONER/APPELLANT]

Vs

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

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed on the petitioner/appellant by the Learned XII Additional Special Judge for CBI Cases at Chennai, made in C.C.No.2 of 2011, dated 19.12.2018 and enlarge the petitioner/appellant on bail pending disposal of the above Crl.A.No.142 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.PANNEERSELVAN, Advocate for the petitioner, and of MR.K.SRIVIVASAN, Spl. 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 19.12.2018 made in C.C.No.2 of 2011 on the file of the learned XII Additional Special Judge for CBI Cases, Chennai pending disposal of the appeal.

2. The petitioner/A-4 herein is the accused in Calendar Case No.2 of 2011 on the file of the learned XII Additional Special Judge for CBI Cases, Chennai. He was found guilty of the offences u/s.120B, 420, 468 and 471 of IPC and he has been convicted and sentenced run concurrently as under:

S.No.	Conviction	Sentence
1.	Section 120B of IPC	1 year R.I and fine of Rs.5,000/- in default to undergo S.I for 3 months
2.	Section 420 of IPC	4 years R.I. and fine of Rs.10,000/- in default to undergo S.I for 1 year.
3.	Section 468 of IPC	4 years R.I. and fine of Rs.10,000/- in default to undergo S.I for 1 year.
4.	Section 471 of IPC	1 year R.I. and fine of Rs.5,000/- in default to undergo S.I for 3 months.

Aggrieved against the same, the petitioner has preferred this appeal.

3. The case of the prosecution is that Mr.P.Misra/A-1, Dy.Nautical Advisor to Government of India, Director General Shipping Office, Mumbai that he was involving into criminal conspiracy with other private persons during the year 2008-2009 to cheat Mercantile Marine Department, Government of India in the matter of issue of "Watch Keeping Certificate" and he being the authority empowered to issue the "Watch keeping Certificate" abused his official position, issued "Watch Keeping Certificate" for illegal gratification to various private persons knowing fully well that the experience certificate enclosed with the applications by the applicants were forged and fabricated. The investigation revealed 4 such instances committed during the check period. On credible evidences collected during the investigation, a charge sheet/F.I.R.No.RC.29/A/2009/CBI/ACB, Chennai was filed before the Special Court for CBI Cases, Chennai against P.Misra(A-1) being the Public Servant and 4 others including the present petitioner/A-4/Ramalingam for the offences punishable under Sections u/s.120B, 420, 468 and 471 of IPC and 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988 and after trial the accused were sentenced to undergo imprisonment as stated above.

4. The learned counsel for the petitioner/A-4 would submit that after registration of the case the petitioner/A-4 was arrested and remanded to judicial custody and later released on bail on furnishing sureties. Thereafter, the trial was conducted and that the petitioner has been convicted as stated above. He would submit that the petitioner/A-4 is a seamen and was on voyage and after reaching the shores on 02.02.2019, he surrendered before the trial Court on 26.02.2019. He would further submit that he was on bail through out the trial and that the entire fine amount of Rs.30,000/- has been paid before the trial Court and he would also submit that the co-accused in this case have been granted bail in CrI.M.P.No.17975 of 2018 in CrI.A.No.868 of 2018, dated 27.12.2018.

5. The learned counsel for the petitioner/A-4 would further submit that while the petitioner/A-4 was on bail during the trial he has not misused the liberty granted to him during the trial. He would also submit that there are arguable points available in the appeal and that the petitioner has got a fair chance of succeeding the appeal and would pray that it may take some time for the records to be made ready and the appeal being listed for final hearing.

Therefore, he prays for grant of suspension of sentence to the petitioner/A-4.

6. The learned Special Public Prosecutor for CBI Cases has raised objections for suspending the sentence. However, he would submit that the sentence in respect of the co-accused have been suspended.

7. Taking into consideration the submissions made by the learned counsels and also considering that there are arguable points available in the appeal, I am inclined to suspend the substantive sentence of imprisonment alone subject to the following conditions that:-

(i) the petitioner/A-4 shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties each for a like sum to the satisfaction of the learned learned XII Additional Special Judge for CBI Cases, Chennai.

(ii) the petitioner/A-4 shall appear before the above said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

15/04/2019

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 XII ADDITIONAL SPECIAL JUDGE,
FOR CBI, CASES, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

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.S.PANNEERSELVAN Advocate on payment of necessary charges SR.NO.7810

Order

in
CRL MP.3801/2019

in
CRL A.142/2019

Date :15/04/2019

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