

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Friday, the Fifth day of April Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.4926 of 2019

in CRL.A.No.197 of 2019

A.V.SHANMUGASUNDARAM

[ PETITIONER/APPELLANT ]

Vs

THE STATE REP BY ITS,  
THE ADDITIONAL SUPERINTENDENT OF POLICE,  
SPE CBI ACB, CHENNAI.

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.197 of 2019 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.58 of 2003 on the file of the Learned Principal Special Judge for CBI CASES, VIII Additional City Civil Court, Chennai judgment dated 28.03.2019 and enlarge the petitioner on bail, pending disposal of the CRL.A.No.197 of 2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.197 of 2019 on the file of the High Court and upon hearing the arguments of M/S.S.SASI KUMARR, 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 28.03.2019 made in C.C. No.58 of 2003 on the file of the Principal Special Judge for CBI Cases, Chennai, pending disposal of the appeal.

2. The petitioner herein is arrayed as A11 in C.C. No.58 of 2003 on the file of the Principal Special Judge for CBI Cases, Chennai. He has been found guilty of the offence u/s. 13(2) r/w 13(1) (d) of the 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) (d) of the Prevention of Corruption Act, 1988 | 3 years R.I and pay a fine of Rs.5,000/- in default to undergo 6 months S.I. |

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

3. The case of the prosecution is that the petitioner was working as Zonal Manager of Indian Bank from 1993 to January 1996. The petitioner/All had entered into a conspiracy with the help of the other accused fraudulently and dishonestly submitted false applications for various facilities of Indian Bank, Muthialpet Branch and Singapore branch, knowing fully well that the facilities availed would not be used for the purpose for which they were sanctioned and diverted the funds for some other purpose and caused wrongful loss of Rs.20,87,09,541/, to the Indian Bank and caused corresponding wrongful gain to them by way of pecuniary advantages and committed the offences under Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988, and further convicted and sentenced for the offences as stated above.

4. The learned counsel for the petitioner would submit that while the petitioner was on bail during the trial he has not misused the liberty granted to him during the trial. He would also submit that the petitioner is a septuagenarian. He would further submit that the petitioner has paid the fine amount on 28.03.2019 and sentence of the petitioner is suspended till 24.04.2019. 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 submit that it may take some time for the records to be made ready and the appeal being listed for final hearing and would pray for suspension of sentence.

5. The learned Additional Public Prosecutor appearing for the respondent opposed to grant suspension of sentence.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels on either side and that there are arguable points involved in the appeal and that it would take sometime for final hearing of the appeal. I am inclined to suspend the substantive sentence of imprisonment alone.

7. 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 VIII Additional Principal Special Judge for 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/-  
05/04/2019

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 VIII ADDITIONAL PRINCIPAL SPECIAL JUDGE FOR CBI CASES,  
CHENNAI

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

3 THE ADDITIONAL SUPERINTENDENT OF POLICE,  
SPE CBI ACB, CHENNAI.

+2 C.C. to M/S.S.SASI KUMARR Advocate on payment of necessary charges SR.NO.7087

Order

in  
CRL MP.4926/2019  
in  
CRL.A.197/2019

Date :05/04/2019

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cm 05/04/2019