

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Third day of July Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.8717 of 2019

IN CRL.A.399 OF 2019

M.VIJAYAKUMAR

[PETITIONER]

vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
CENTRAL BEURO OF
INVESTIGATION (CBI),
SPE/CBI/EOW/CHENNAI.
(RC.NO.4E OF 2009).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.399/2019 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence dated 31.05.2019 for Three year rrigorous imprisonment u/s.120B IPC r/w 409,420,467,468,471 and 109 of IPC passed in CC NO.3 of 2010 against the Petitioner/Appellant by the XI Additional Special Sessions Judge, Chennai. (Case dealing with Banking and financial institution cases, CBI Court,Chennai for pending disposal of the above Crimeinal Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.399/2019 on the file of the High Court and upon hearing the arguments of M/S.V.GANESH 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 by the petitioner/appellant/A-3, to suspend the sentence of imprisonment imposed in the judgment dated 31.05.2019 made in Calendar Case No.3/2010 on the file of the learned XI Additional Special Judge [Case dealing with Banking and Financial Institution Cases], CBI Court, Chennai, pending disposal of the appeal.

2 The petitioner/appellant is arrayed as A-3 out of 3 accused and he was found guilty of the offences u/s.120B read with 409, 420, 467, 468, 471, 109 IPC and section 13[2] read with 13[1][c] and [d] of the Prevention of the Corruption Act, 1988 ; 109 r/w 467 & 468 IPC ; 109 r/w 467 IPC and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	120B read with 409, 420, 467, 468, 471, 109 IPC and section 13[2] read with 13 [1][c] and [d] of the Prevention of Corruption Act, 1988	3 years R.I and fine of Rs.15,000/- with a default sentence of 6 months simple imprisonment.
2.	420 IPC	3 years R.I and fine of Rs.15,000/- with a default sentence of 6 months simple imprisonment.
3.	109 r/w 467 & 468 IPC	3 years R.I and fine of Rs.15,000/- with a default sentence of 6 months simple imprisonment.
4.	109 r/w 468 IPC	3 years R.I and fine of Rs.15,000/- with a default sentence of 6 months simple imprisonment.

Aggrieved against the same, the petitioner/appellant/A-3 has preferred this appeal.

3. The case of the prosecution is that the petitioner/appellant/A-3, along with the other accused, viz., A-1, A-2 and A-3, entered into criminal conspiracy, and by abusing their official powers, prepared fabricated documents, viz., Salary Slips, in respect of persons who are not eligible for obtaining loans, and fraudulently obtained Bank Loan from the State Bank of Sourashtra during the period 2005 - 2007 for the construction houses by A-1, viz., M/s.S.K.Constructions and thereby, dishonestly cheated the Bank and committed the said offences.

4. The learned counsel for the petitioner/appellant/A-3 would 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 the substantive sentence imposed against the petitioner may be suspended. He would also submit that the fine amount has been paid and the trial Court has also suspended the sentence of imprisonment till 28.06.2019 and further extended the same till tomorrow [04.07.2019].

5.The learned Special Public Prosecutor [CBI] has raised objections for suspending the sentence.

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

7.Hence, the sentences of imprisonment imposed on the petitioner/appellant/A-3 by the Trial Court alone is hereby suspended till the disposal of the appeal and the petitioner/appellant/A-3 is ordered to be enlarged on bail on his 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 [Case dealing with Banking and Financial Institution Cases], CBI Court, Chennai and on further condition that the petitioner/appellant/A-3 shall report before the trial Court on the first working day of every English Calendar month at 10.30 a.m., pending appeal.

-sd/-

03/07/2019

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 XI ADDITIONAL SPECIAL JUDGE[CASE DEALING WITH BANKING AND FINANCIAL INSTITUTION CASES],
CBI COURT,CHENNAI

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

3 THE INSPECTOR OF POLICE,
CENTRAL BEURO OF INVESTIGATION (CBI),
SPE/CBI/EOW/CHENNAI.
(RC.NO.4E OF 2009).

+1 C.C. to M/S.V.GANESH Advocate on payment of necessary charges SR.NO. 13294

Order

in
CRL MP.8717/2019

IN CRL.A.399 OF 2019

Date :03/07/2019

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RD 04/07/2019