

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighteenth day of October Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.14770 of 2019

IN CRL A.818/2017

FRANKLIN SAMUEL RAJ
@ TONEY @ ANDREW MARSHALL

[PETITIONER / APPELLANT /
ACCUSED]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
C.B.I./EOW/CHENNAI.

[RESPONDENT / RESPONDENT /
RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.818/2017 on the file of the High Court, the High Court will be pleased to permit the petitioner to pay the remaining fine amount of Rs.4,50,000/- by way of cash in Crl.M.P.No.2243/2018 in Crl.A.No.818/2017 order dated 15.02.2018 before the Trial Court and enlarge the petitioner on bail in Crl.A.818/2017. [IN CRL.MP.NO.14770 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.818/2017 on the file of the High Court and upon hearing the arguments of M/S.A.G.RAJAKUMAR, 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 is A3 in C.C.No.7 of 2013. The trial court namely XI Additional City Civil and Sessions Judge for CBI Cases relating to Bank and Financial Institution, Chennai 600 001, by its judgment dated 20.12.2017 found the petitioner guilty and he was convicted and sentenced as stated below:

petitio ner	conviction	sentence
Petitio ner/ A3	(i)U/s.120-B r/w.420, 201, 409, 419, 465, 467, 468 and 471 IPC and Sec.13(2) r/w.13(1) (d) of PC Act, 1988	To undergo RI for 6 months and to pay fine of Rs.10,000/-, in default, to undergo SI for one month

petitioner	conviction	sentence
	(ii)U/s.420 IPC (3 counts)	To undergo RI for 3 years for each count and to pay compensation of Rs.1.50 crores to the Indian Overseas Bank, Koyambedu Branch u/s.357(3) of Cr.P.C., within one month, in default to undergo SI for 18 months
	(iii) for offence u/s.468 IPC (4 counts) of Prevention of Corruption Act, 1988	to undergo RI for two years for each count and to pay a fine of Rs.50,000/-, in default, to undergo SI for two months each for each count.
	(iv) for offence u/s.467 IPC (3 counts)	to undergo RI for two years for each count and to pay a fine of Rs.50,000/-, in default, to undergo SI for two months each for each count.
	(v) for offence u/s.465 IPC (4 counts)	to undergo RI for two years for each count and to pay a fine of Rs.50,000/-, in default, to undergo SI for two months each for each count.
	(vi)for offence u/s.471, r/w.468 IPC (4 counts)	to undergo RI for two years for each count and to pay a fine of Rs.50,000/-, in default, to undergo SI for two months each for each count
	(vii) for offence u/s.201 IPC	to undergo RI for six months and to pay a fine of Rs.10,000/-, in default, to undergo SI for one month.

Total fine amount imposed on A3/petitioner is Rs.7,70,000/-. The sentence imposed on the petitioner for each offence were ordered to run concurrently.

2. Against the judgment of conviction and sentence, the petitioner preferred appeal before this Court in CrI.A.No.818 of 2017 along with a petition for suspension of sentence in CrI.M.P.No.1119 of 2018, wherein, this Court, by order dated 01.02.2018, suspended the substantial sentence of imprisonment imposed on the petitioner alone on condition that the petitioner shall deposit a sum of Rs.2,70,000/- immediately and along with

fine receipt for the same, he was directed to execute a bond for Rs.1,00,000/- to the satisfaction of the trial court. Further, the trial court directed the petitioner to pay the balance fine amount of Rs.5,00,000/- in two equal instalments, i.e., to pay Rs.2,50,000/- on or before 15.2.2018 and the balance amount of Rs.2,50,000/- on or before 28.2.2018.

3. As the petitioner was unable to remit fine amount as per the orders of this Court in Crl.M.P.No.1119 of 2018 dated 1.2.2018, he preferred, Crl.M.P.No.2243 of 2018 before this Court seeking modification of the condition imposed on him, wherein, this Court, after recording submissions, directed the petitioner to deposit the amount of Rs.50,000/- on 15.2.2018 and the balance of Rs.4.5 lakhs on or before 28.2.2018.

4. Accordingly, the petitioner deposited a sum of Rs.50,000/- on 15.2.2018, but the petitioner was unable to remit the fine amount of Rs.4,50,000/- within the stipulated time, i.e., on 28.2.2018. Since the petitioner has not deposited the amount within stipulated time, he was issued with a Non Bailable Warrant by the trial court and the petitioner is now lodged at Central Prison, Puzhal.

5. Learned counsel for the petitioner submitted that the family members of the petitioners had mobilized a sum of Rs.4,50,000/- and obtained demand draft dated 6.3.2018 for the said amount and presented the demand draft before the trial Court. The trial court refused to entertain the demand draft stating that the time limit given by the High Court has already expired. Now the petitioner submits that he is ready with the fine amount. Thus he prayed to permit the petitioner to pay the remaining fine amount of Rs.4,50,000/- by way of cash before the trial court and thereafter, the petitioner may be enlarged on bail.

6. In view of the same, this Court, by its order dated 17.10.2019, directed the trial Court to receive the balance fine amount of Rs.4,50,000/- to the credit of C.C.No.7 of 2013 and issue receipt thereof. Accordingly, the petitioner remitted the balance fine amount of Rs.4,50,000/- before the trial court and today he produced receipt bearing receipt No.177233 for the same.

8. The petitioner was originally convicted and sentenced for a period of three years. It is seen that though this Court in Crl.M.P.No.1119 of 2018 had suspended the sentence of the petitioner, for non payment of balance fine amount, the petitioner was issued with a Non Bailable Warrant, pursuant to which, the petitioner was taken in custody on 20.09.2019, from which date, he is suffering incarceration. Now the petitioner had paid the entire fine amount of Rs.7,70,000/-.

9. In view of the above, this Court is inclined to suspend the substantial sentence of imprisonment imposed on the petitioner till the disposal of appeal. Accordingly, the petitioner is ordered to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned XI Additional City Civil and Sessions Judge for CBI Cases relating to Bank and Financial Institution, Chennai 600 001

10. Further the petitioner is directed to appear before the trial Court on the first working day of every month at 10.30 a.m. until further orders.

-sd/-
18/10/2019

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 CITY CIVIL AND
SESSIONS JUDGE FOR CBI CASES RELATING TO
BANK AND FINANCIAL INSTITUTION,
CHENNAI-600 001.

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

3 THE INSPECTOR OF POLICE,
CBI/EOW/CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI.

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+2C.C. to M/S.A.G.RAJAKUMAR Advocate on payment of necessary charges SR NO.21398

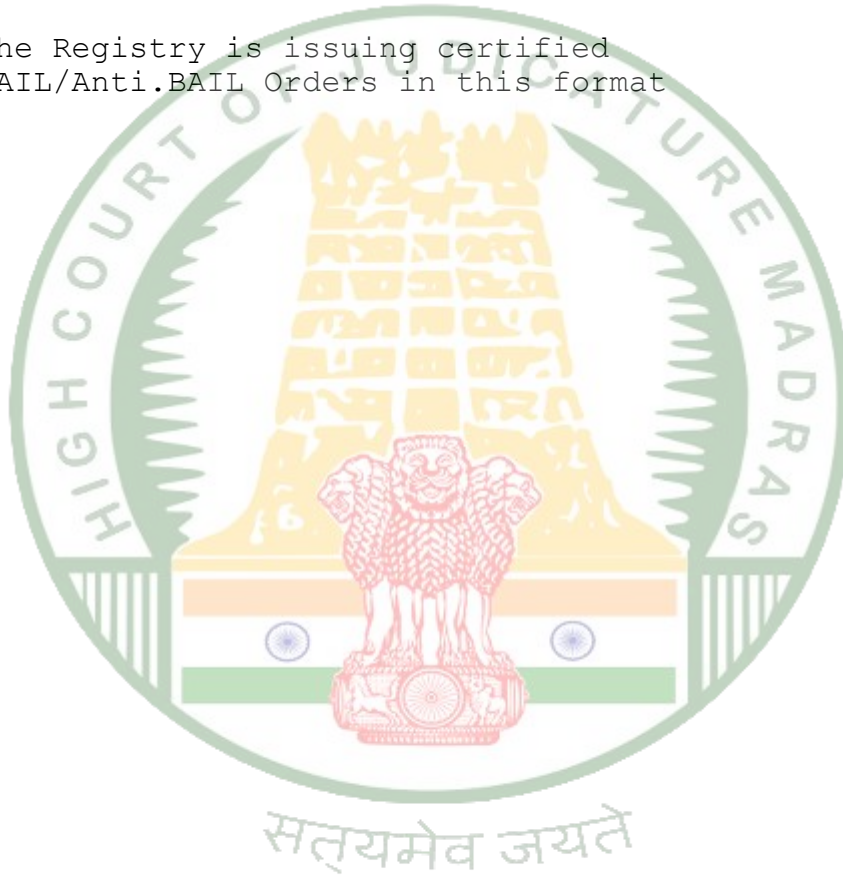
Order

in
CRL MP.14770/2019
in
CRL.A.818/2017

Date :18/10/2019

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

MK:18/10/2019



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