

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Tenth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL MISCELLANEOUS PETITION No.1472 of 2020

IN CRL.A.NO.73 OF 2020

M.A.BS.VINAYAGAM @
M.A.BALASUNDARA VINAYAGAM

[PETITIONER / APPELLANT /
ACCUSED]

Vs

STATE BY
INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
CBI/ACB, CHENNAI.
R.C.NO.MA.1/2007A/0055.

[RESPONDENT / RESPONDENT /
COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.73/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed on the petitioner in C.C.No.4 of 2009 on the file of the learned XI Additional Special Sessions Judge, (CBI Cases relating to Banks and Financial Institutions), Chennai, Judgment dated 31.01.2020 and enlarge the petitioner on bail, pending disposal of the Crl.A.No.73/2020.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.73/2020 on the file of the High Court and upon hearing the arguments of M/S.K.R.RAMESH KUMAR, 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:-

Appellant was convicted for the offence under Section 120(B) r/w 420, 468, 468 r/w 471 IPC and Sections 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988 and punished him to undergo 4 years R.I. and to pay a fine of Rs. 1 Lakh in default to undergo 6 months S.I., for the offence u/s.420 IPC, punished him to undergo R.I. for 4 years and also to pay a fine of Rs.1 Lakh in default to undergo S.I. for 6 months, for the offence u/s.468 IPC and punished him to undergo R.I. for 4 years and also to pay a fine of Rs.1 Lakh in default to undergo S.I. for 6 months, for the offence 471 r/w 468 IPC, punished him to undergo R.I. for 4 years and also to pay a fine of Rs.1 Lakh in default, to undergo S.I. for 6 months, for the offence u/s.420 IPC and punished him to undergo R.I. for 4 years and also to pay a fine of Rs.1 Lakh in default to undergo S.I. for 6 months, for the offence u/s.471 r/w 468 of IPC, punished him to

undergo R.I. for 4 years and also to pay a fine of Rs.1 Lakh in default to undergo S.I. For 6 months and for the offence u/s.471 r/w 468 IPC, punished him to undergo R.I. for 4 years and also to pay a fine of Rs.1 Lakh in default to undergo S.I. For 6 months (Total fine amount is Rs. 7 Lakhs). The period of detention already undergone by the accused is ordered to be set off u/s.428 Cr.P.C. by the learned XI Additional Special Sessions Judge (CBI Cases Relating to Banks and Financial Institutions), Chennai in C.C.No.4 of 2009 dated 31.01.2020. The sentence of imprisonment imposed will be running concurrently. Hence, the appellant seeks suspension of sentence.

2.Heard the learned counsel for the appellant as well as the learned Special Public Prosecutor for CBI Cases.

3.The learned counsel appearing for the appellant would submit that after conviction, the petitioner was remanded to judicial custody on 31.01.2020 and till now the petitioner is in prison. Since the petitioner is the Principal borrower, he submitted that he is ready to appropriate the entire loan amount within a reasonable time and he is in prison for the past 10 days and he is also suffering from age old ailments. The petitioner has also filed an undertaking affidavit before this court which reads as follows:

4.I state that as per the prosecution case, the loss caused to the bank Rs.1,00,65,999/- and I further submit that it is not my intention to cheat the bank. There are two properties belonging to me and the details of the properties are mentioned below:

i)Plot Nos.124 & 125 (DTCP approved layout No.373/73, in No.153, Sunambhu Kulathur, Madipakkam II Village, Tambaram Taluk in S.No.400/2 (measuring 6976 sq. ft.) (As per Auction Notice) value as on 31.01.2012 Rs.1,65,00,000/- Rupees One Crore Sixty Five Lakhs only) and as per the Evidence of DW.4, Value as on 12.08.2019 Rs.1,87,69,000/- (Rupees One Crore Eighty Seven Lakhs Sixty Nine Thousand only).

(ii)Plot Nos.904 & 905, (DTCP approved layout No.12/75, in No.97, Sasunambhu Kulathur, Madipakkam II Village, Tambaram Taluk in S.No.397/5 (measuring 6006 sq. ft.) (As per Auction Notice) value as on 31.01.2012 Rs.1,42,00,000/- Rupees One Crore Forty Two Lakhs only) and as per the Evidence of D.W.4 value as on 12.08.2019 Rs.2,03,00,000/- (Rupees Two Crore Three Lakhs only) Total 12,982 sq. ft.

The Bank has periodically valued the above said properties during March 2013, March 2017 and August 2019 respectively.

which are available with the bank viz. Union Bank of India, Ashok Nagar Branch as Security. The bank could not sell the property in the Public Auction due to the recession prevailing all over the country. I had identified few purchasers, most of whom were apprehensive of buying the property because of pendency of CBI Case. During the end of 2019, I identify a purchaser and made an offer of Rs.1,40,00,000/- as one time

settlement. The bank has verbally accepted and insisted to deposit for 50% upfront to accept my offer, which I could not arrange and the proposed buyer was also little hesitant to deposit the said amount.

5.I hereby undertake to negotiate with the bank for one time settlement and identify a prospective buyer and settle the bank fully within a period of 8 weeks from the date of my release from the prison.

4.Considering the facts and circumstances of the case and also considering the fact that the petitioner himself has come forward with an undertaking affidavit that he is ready to appropriate the entire amount within a reasonable time of 8 weeks and also having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration, I am of the considered opinion that the appellant is entitled for the relief of suspension of sentence.

5.Accordingly, the substantive sentence of imprisonment alone is suspended and the appellant is directed to be enlarged on bail, on condition that the appellant 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 Special Sessions Judge (CBI Cases relating to Banks and Financial Institutions), Chennai and on further condition that the appellant shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal, failing to comply with the undertaking affidavit, the bail granted by this Court shall stand automatically vacated.

-sd/-

10/02/2020

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
SESSIONS JUDGE (CBI CASES RELATING TO BANKS
AND FINANCIAL INSTITUTIONS), CHENNAI.

2 THE SPECIAL PUBLIC PROSECUTOR
<https://hcservices.ecourts.gov.in/hcservices/>
FOR CBI CASES, HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
CBI/ACB, CHENNAI.

+2 C.C. to M/S.K.R.RAMESH KUMAR Advocate on payment of necessary
charges SR.No.2506

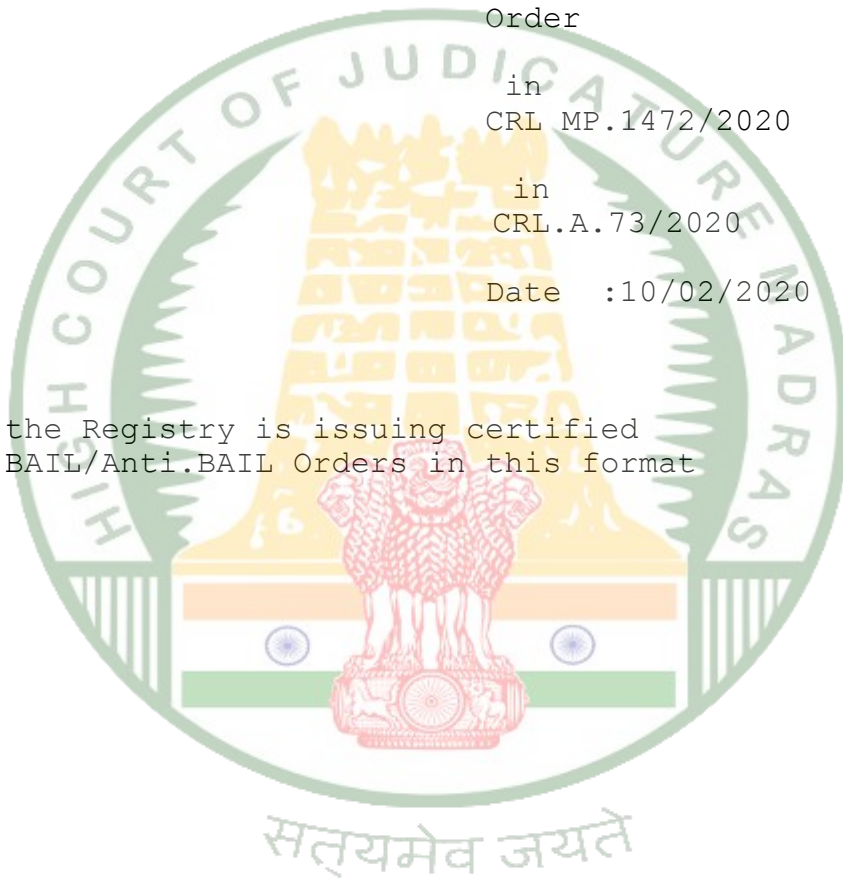
Order

in
CRL MP.1472/2020

in
CRL.A.73/2020

Date :10/02/2020

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copies of the BAIL/Anti.BAIL Orders in this format
cs 11/02/2020



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