

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Ninth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.2971 of 2020

IN CRL A.116/2020

J.JAYAKUMAR

[PETITIONER]

Vs

STATE REP.BY

[RESPONDENT]

ADDITIONAL SUPERINTENDENT OF POLICE,

CBI, ACB, CHENNAI.

IN RC MA 1 2004 A 0065 DATED 30.09.2004.

Petition praying that in the circumstances stated therein the High Court will be pleased to modify the condition (i) para No. 4, The petitioner/ appellant is directed to deposit a sum of Rs. 10,00,000/- directly to the Madras Atomic Power Station (MAPS) Kalpakkam, by way of Demand Draft within a period of two weeks, from the date of receipt of copy of this order in the order passed in CRL.MP.NO.2224/2020 IN CRL.A.116/2020 DATED 20.02.2020. [CRL.MP.NO.2971/2020]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of MR.V.PRAKASH SHARAM SENIOR COUNSEL FOR M/S. RADHA PANDIAN, 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 the 3rd accused in C.C.No.28 of 2006, who was convicted by the learned XIII Additional Special Judge for CBI Cases, Chennai by judgment dated 22.01.2020 for the offence under Section 120B, sentenced to undergo for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month and for offence under Section 419 of IPC, sentenced to undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month and for offence under Section 420 of IPC, sentenced to undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month and for offence under Section 467 of IPC, sentenced to undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month and for offence under Section 468 of IPC, sentenced to undergo imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month and for offence under Section 471 of IPC, sentenced to undergo

imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month. All the sentences were ordered to run concurrently and the total fine amount imposed by the trial Court is Rs.6,000/-.

2.The sentence of the petitioner was suspended by the trial Court. In the meantime, the petitioner preferred an appeal in C.A.No.116 of 2020 before this Court and filed a petition for Suspension of Sentence in CrI.M.P.No.2224 of 2020, in which this Court by order dated 20.02.2020 had enlarged the petitioner on bail and imposed the conditions as follows:-

"(i) the petitioner directed to deposit a sum of Rs.10,00,000/- directly to Madras Atomic Power Station (MAPS), Kalpakkam by way demand draft within a period of two weeks, from the date of the order copy and to produce the proof of payment before the concerned Court at the time of executing the sureties.

(ii)The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties for a like sum to the satisfaction of the XIII Additional Special Judge for CBI Cases, Chennai and on further condition that,

(iii)the petitioner shall appear before the said Court at 10.30 a.m on the first working day of every English calender month, pending appeal."

3.The learned Senior Counsel appearing for the petitioner submitted that the petitioner is unable to deposit such huge amount of Rs.10,00,000/- (Rupees ten lakh only), since he is suffering from the year 2014 because of this case. The petitioner has filed an appeal against the Judgment of conviction and also filed an application for bail/Suspension of Sentence before this Court and this Court had admitted the appeal and he has got fairly good chance in succeeding the appeal.

4.Further, the trial Court after fulfilled trial, convicted the petitioner and sentenced him to maximum period of two years and had imposed a total fine of Rs.6,000/-, which he had deposited, the appeal being a statutory appeal without the appeal being heard and decided on merits. Imposition of condition to deposit the amount of Rs.10,00,000/- (Rupees ten lakh only) to Madras Atomic Power Station (MAPS), Kalpakkam, makes it appear that the petitioner is directed to pay compensation, which would cause great prejudice to him. Further, imposing such onerous condition would amount to denial of bail.

5.The Senior Counsel for the petitioner further submitted that the case of the prosecution is that the material supplied to Madras Atomic Power Station (MAPS), Kalpakkam by the petitioner being the proprietor of M/s.Shyam Agencies is on a inflated rate which were procured from other supplies. The petitioner was made as a listed supplier at the instant of the 1st accused, who was the Senior

Maintenance Engineer (Electricals in MAPS). The case is that at a inflated rate, the materials were supplied and not a case of non supply of components/materials, hence, depositing Rs.10,00,000/- (Rupees ten lakh only) being onerous, the same may be reduced. He further submitted that the petitioner may be permitted to deposit the amount in the trial Court by way of fixed deposit receipt.

6.The Special Public Prosecutor appearing for the respondent submitted that the petitioner while seeking suspension of sentence in Crl.M.P.No.2224 of 2020, he was ready to pay the amount of Rs.10,00,000/- (Rupees ten lakh only) and now seeking for modification of the condition is to evade the payment. The learned counsel further submitted that the lower Court had not ordered any compensation in this case and the fine amount of Rs.6,000/- imposed has been paid by the petitioner.

7.This Court considering the submissions and the difficulty expressed by the petitioner that one of the condition to deposit Rs.10,00,000/- (Rupees ten lakh only) to MAPS being a onerous one and further statutory appeal is pending, this Court is inclined to modify the condition of depositing Rs.10,00,000/- (Rupees ten lakh only).

8.Hence the petitioner is directed to deposit a sum of Rs.3,00,000/- (Rupees three lakh only) by way of fixed deposit in the name of petitioner from a Nationalized Bank. The same to be produced and submitted to the custody of the XIII Additional Special Judge for CBI Cases, Chennai within a period of four weeks from the date of receipt of a copy of this order. The trial Court to inform the concerned Nationalized Bank not to act on the fixed deposit receipt in any manner without its permission. The petitioner shall execute the bond for a sum of Rs.10,000/- with two sureties for a like sum to the XII Additional Special Judge for CBI Cases, Chennai, within this period of four weeks. The other conditions shall stand unaltered.

9.Accordingly, this Criminal Miscellaneous Petition is ordered.

सत्यमेव जयते

-sd/-

09/03/2020

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 XIII ADDITIONAL SPECIAL
JUDGE FOR CBI CASES, CHENNAI

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

3 THE MADRAS ATOMIC POWER STATION
[MAPS] KALPAKKAM

4 THE ADDITIONAL SUPERINTENDENT OF POLICE,
CBI, ACB, CHENNAI.
IN RC MA 1 2004 A 0065 DATED 30.09.2004.

+1 C.C. to M/S. RADHA PANDIAN Advocate on payment of necessary
charges SR.NO. 4597

Order
in
CRL MP.2971/2020

in
CRL A.116/2020

Date :09/03/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 10/03/2020

सत्यमेव जयते

WEB COPY