

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.M.P.No.5973 of 2020

in Crl.A.No.390 of 2020

1.Anuraag Jain

..Petitioners/Accused 2 & 6

2.M/s.National Medicine Pvt.Ltd.,
Represented by Anuraag Jain.

Vs.

State represented by
The Inspector of Police,
BS & FC/CBI/Bangalore,
(R.C.No.8/E/2008)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioners by judgment and order dated 29.09.2020 passed in C.C.No.45 of 2009 on the file of the XI Additional Sessions Court (CBI Cases relating to Banks & Financial Institutions), Chennai and to enlarge the petitioners on bail till the disposal of the appeal.

For Petitioners : Mr.K.Shanker

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor

ORDER

This case is taken up through video conferencing.

2. This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioners by judgment and order dated 29.09.2020 passed in C.C.No.45 of 2009 on the file of the XI Additional Sessions Court (CBI Cases relating to Banks & Financial Institutions), Chennai and to enlarge the petitioners on bail till the disposal of the appeal.

3. The petitioners, who were the second and sixth accused in C.C.No.45 of 2009 on the file of the XI Additional Sessions Court (CBI Cases relating to Banks & Financial Institutions), Chennai, were convicted and sentenced as follows:

Accused	Provision under which convicted	Sentence
Anuraag Jain (A2)	Section 120(b) r/w 409 and 420 IPC and Section 13(2) r/w (13(1)(d) of the Prevention of Corruption Act	Five years rigorous imprisonment and fine of Rs.2,00,000/-, in default to undergo six months simple imprisonment.
	Section 420 IPC	Five years rigorous imprisonment and fine of Rs.2,00,000/-, in default to undergo six months simple imprisonment.
M/s.National Medicine Pvt.Ltd. (A6)	Section 120(b) r/w 409 and 420 IPC and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act	Fine of Rs.1,00,000/-
	Section 420 IPC	Fine of Rs.1,00,000/-

The aforesaid sentences were ordered to run concurrently.

4. Challenging the above conviction and sentences, the petitioners have filed CrI.A.No.390 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.K.Shanker, learned counsel for the petitioners and Mr.K.Srinivasan, learned Special Public Prosecutor appearing for the respondent/State. The respondent have filed a counter opposing the prayer for bail.

6. It is the case of the prosecution that the first petitioner had obtained a loan of Rs.6,19,00,000/- from Union Bank of India in the year 2006 and his account became Non Performing Asset (NPA). When the bank attempted to initiate proceedings for recovery, it was found that the first petitioner had suppressed certain facts and had obtained the loan in collusion with the Branch Manager of the Bank. On these allegations, the first petitioner was tried along with the bank officials and was convicted and sentenced as above.

7. It is seen that the trial Court has sentenced the co-accused to three years and two years imprisonment, whereas, the first petitioner has been sentenced to five years rigorous imprisonment and therefore, the trial Court was unable to suspend the sentence under Section 389(3) Cr.P.C. The sentence of imprisonment imposed on the co-accused have been suspended by the trial Court as well by this Court, while admitting their appeals. It is also seen that the first petitioner had paid the loan amount of Rs.3,07,00,000/- by way of OTS in the year 2017 and the bank has also withdrawn the recovery proceedings against him.

8. The first petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Moreover, the first petitioner has been in incarceration since 29.09.2020. It is submitted that the first petitioner has paid the fine. In such view of the matter, this Court is of the view that the first petitioner is entitled to the relief of suspension of sentence and bail.

9. Accordingly, the relief of suspension of sentence and bail is granted to the first petitioner on the following conditions:

- (i) The first petitioner shall be released on bail on he executing a bond for a sum of Rs.25,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the XI Additional Sessions Court (CBI Cases relating to Banks & Financial Institutions), Chennai;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The first petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

This criminal miscellaneous petition qua National Medicine Private Limited (second petitioner/A6) stands dismissed as it is a juristic person and hence, no sentence of imprisonment can be passed.

-sd/-

18/11/2020

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

2 THE INSPECTOR OF POLICE,
BS AND FC/CBI/BANGALORE.
(RC.NO.8/E/2008)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, PUZHAL, CHENNAI.

+2 C.C. to M/S.K.SHANKER Advocate on payment of necessary
charges SR.NO.7569

Order

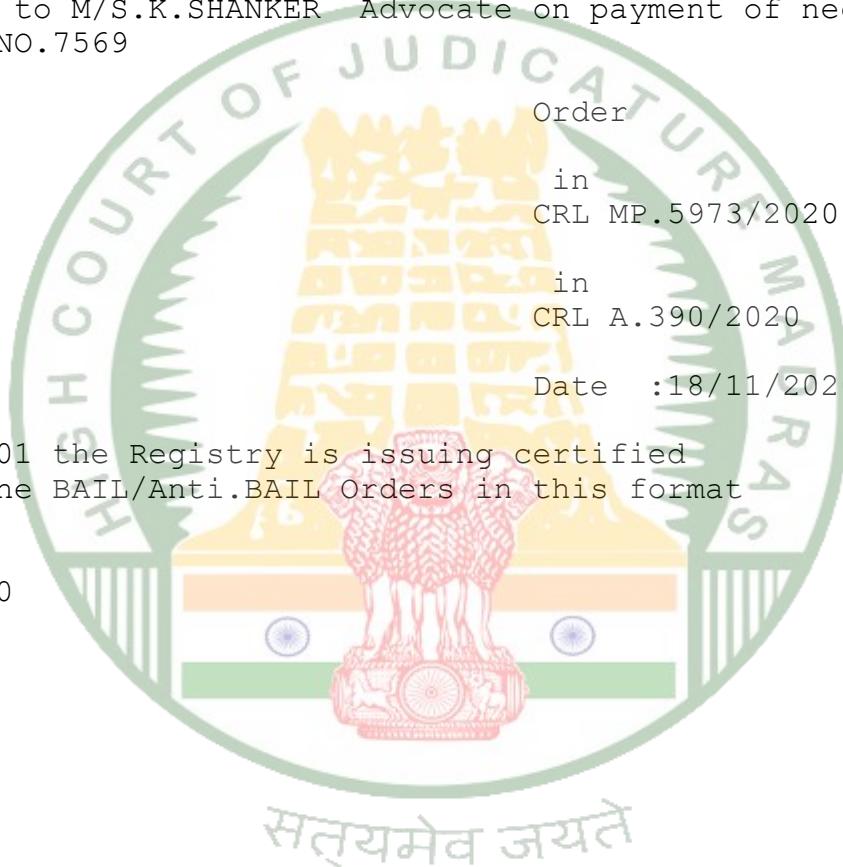
in
CRL MP.5973/2020

in
CRL A.390/2020

Date :18/11/2020

From 7.2.2001 the Registry is issuing certified
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TA-18/11/2020



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