

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fifth day of March Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.4243 of 2020

in CRL.R.C.No.538 of 2020

V.M.S.HAJEE MOHAMED

[PETITIONER]

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
SPE/CBI/EOW/ CHENNAI.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed on the petitioner by the Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in CC No.10739/2003 dated 16.04.2012, confirmed by the Judgement of the Learned IV Additional Sessions Judge, Chennai in Crl.A.No.86 of 2012 dated 11.11.2019 pending disposal of this CRL.R.C.No.538 of 2020.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S. K.SHANKER, 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 Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai in C.C.No.10739 of 2003 dated 16.04.2012, confirmed by the Judgment of the Learned IV Additional Sessions Judge, Chennai in Crl.A.No.86 of 2012 dated 11.11.2019, pending disposal of above Revision.

2.The Revision Petitioner / Accused No.3 was found guilty for the offence under Sections 120(B) r/w 420, 420, 467, 468, 471 r/w. 468 IPC and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Under Section 120B r/w 420 IPC	Undergo Rigorous Imprisonment for three years and to pay a fine of Rs.25,000/- in default to undergo Rigorous imprisonment for six months.
2.	Under Section 420 IPC	Undergo Rigorous Imprisonment for three years and to pay a fine of Rs.25,000/- in default to undergo Rigorous imprisonment for six months.
3.	Under Section 467 IPC	Undergo Rigorous Imprisonment for three years and to pay a fine of Rs.25,000/- in default to undergo Rigorous imprisonment for six months.
4.	Under Section 468 IPC	Undergo Rigorous Imprisonment for three years and to pay a fine of Rs.25,000/- in default to undergo Rigorous imprisonment for six months.
5.	Under Section 471 r/w 468 IPC	Undergo Rigorous Imprisonment for three years and to pay a fine of Rs.25,000/- in default to undergo Rigorous imprisonment for six months.

3.The sentences were ordered to run concurrently. The petitioner / accused No.3 has paid a total fine of Rs.1,25,000/-, apart from the fine amount the accused No.2 & 3 were also directed to pay a fine of Rs.25,000/- on behalf of A1 / Company. Aggrieved against the said conviction and sentence, the petitioner filed an appeal in CrI.A.No.86 of 2012 and the Appellate Court by Judgment and order dated 11.11.2019 dismissed the Appeal and confirmed the conviction and sentence imposed by the Trial Court, against which, the petitioner has filed the the present Criminal Miscellaneous Petition, seeking for suspension of sentence.

4.Heard the counsels.

5.Learned counsel for the petitioner /Accused No.3 would submit that the petitioner is a senior citizen aged about 66 years and suffering from various age old ailments. He would further submit that the petitioner has surrendered before the Trial Court and he is in custody. He would further submit that the petitioner had borrowed from the Bank and due to business loss he was unable to repay the amount. Hence a criminal case has been filed against him and the petitioner was found guilty. He would further submit that there are several infirmities found in the prosecution and the Trial Court as well as the Appellate court without properly analysing the

evidence found the petitioner guilty and convicted him for the above said offence. He would submit that there are arguable points available in the Revision Case and that the petitioner/Accused No.3 is advised that he has got fair chance of succeeding in the Revision Case and would pray that the substantive sentence of imprisonment imposed against the petitioner /Accused No.3 may be suspended and the petitioner may be enlarged on bail.

6.Learned Special Public Prosecutor (CBI Cases) would submit that it is a case where the petitioner by entering into conspiracy and by fabrication of documents had cheated the Bank to the tune of Rs.1,34,89,000/-. Hence, he opposed for the grant of bail to the petitioner/Accused No.3.

7.At this juncture, learned counsel for the petitioner / accused No.3 would submit that without prejudice to his contentions, the petitioner is prepared to deposit Rs.2,50,000/- to the credit of C.C.No.10739 of 2003. He would reiterate that the petitioner has surrendered before the Trial Court on 26.02.2021 and he is in judicial custody for about 10 days.

8.Taking into consideration the facts that there are arguable points available in the Revision Case and that the Revision Case would not be taken up for final hearing at the earliest, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the substantive sentence of imprisonment alone is suspended and the petitioner/Accused No.3 is ordered to be enlarged on bail, on the following conditions:-

- i. The Revision Petitioner /Accused No.3 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties, each for a like sum to the satisfaction of the Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.
- ii. The Revision Petitioner / Accused No.2 shall deposit Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai to the credit of C.C.No.10739 of 2003 and the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, shall re-deposit the amount of Rs.2,50,000/- deposited by the petitioner / Accused No.3 in a Fixed Deposit in any one of the nearby branches of State Bank of India and retain the Fixed Deposit Receipt until further orders.

The Revision Petitioner /Accused No.3 shall report before the Learned Additional Chief Metropolitan Magistrate, Egmore, Chennai on the first working day of every English Calendar month at 10.30 a.m., pending Revision.

-sd/-
05/03/2021

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 ADDITIONAL CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

2 THE IV ADDITIONAL SESSIONS JUDGE,
CHENNAI

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

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

+2 C.C. to M/S. K.SHANKER Advocate on payment of necessary
charges SR.NO.2814

Order

in
CRL MP.4243/2020

in
CRL.R.C.No.538/2020

Date :05/03/2021

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TA-05/03/2021