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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CrI.M.P.No.4610 of 2022

in

CrI.A.No.384 of 2022

E.Ananthan

... Petitioner/Appellant

Vs.

The Central Bureau of Investigation
Represented by the Investigating Officer,
Superintendent of Police,
Anti Corruption Branch, Sastri Bhavan,
Nungambakkam, Chennai - 600 006.
(Crime No.RC MA1 2018 A 0009)

... Respondent/Complainant

PRAYER: This Criminal Miscellaneous Petition has been filed under Section 389 (1) Cr.P.C, to suspend the sentence of imprisonment imposed in the judgment dated 31.03.2022, made in C.C.No.4 of 2019 on the file of the learned Principal Special Judge For CBI Cases, VIII Additional City Civil Court, Chennai and to enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner : Mr.N.R.Elango
For Mr.K.R.Ramesh Kumar

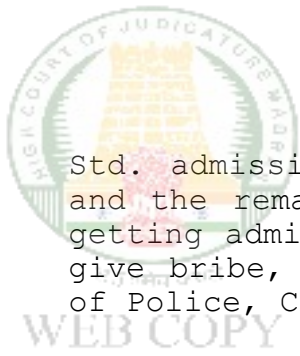
For Respondent : Mr.K.Srinivasan
Special Public Prosecutor, for CBI

O R D E R

The convicted sole accused is the petitioner herein.

2. The respondent-police had registered a case in Crime No.RC MA1 2018 A 0009 as against the appellant for the alleged offence under Section 7 of the Prevention of Corruption Act, 1988.

3. The case of the prosecution is that, while appellant/accused was working as Principal, Kendriya Vidyalaya (KV), Ashok Nagar, Chennai during the period from 04.08.2017 to 09.04.2018, by abusing his official position as a Public Servant, on 06.04.2018, he demanded Rs.1,50,000/- from P.W.2/de-facto-complainant viz., T.Rajendran for admission of his son R.Akilesh, who is provisionally selected for Ist



Std. admission and an amount of Rs.1,00,000/- be paid on 09.04.2018 and the remaining amount Rs.50,000/- to be paid after 15 days after getting admission. Since P.W.2/defacto-complainant was not willing to give bribe, he laid a complaint before the respondent/Superintendent of Police, CBI/ACB, Chennai.

4. The respondent herein, on completion of investigation in Crime No.RC MA1 2018 A 0009, has filed a final report under Section 173(2) Cr.P.C against the appellant for the alleged offences under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act of 1988.

5. The petitioner/appellant submits that, on receipt of Final Report, the learned Principal Special Judge for CBI cases, Chennai has taken cognizance of the same and framed two charges viz.,

i) under Section 7 of the Prevention of Corruption Act, 1988

ii) under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 as against the petitioner/appellant.

6. During the course of trial, the prosecution had examined P.W.1 to P.W.16 including Investigation Officer and marked Exs.P1 to P.33 and also marked M.O.1 to M.O.5 and the defence had also marked Exs.D1 to D3. No one was examined on behalf of the accused.

7. On completion of the trial, the lower Court found the appellant herein guilty of the offence under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 and he is convicted and sentenced to undergo Simple Imprisonment for five (5) years and to pay a fine of Rs.1,00,000/- (Rupees One Lakh only), in default of payment of fine, he shall undergo six months Simple Imprisonment. He had paid the fine amount of Rs.1,00,000/-.

8. Mr.N.R.Elango, learned Senior Advocate contended that the accused is in custody for more than three months from the date of judgment of the trial Court and the evidence of P.W.4, who is the Vigilance Manager, is relied for laying the conviction by the trial Court. However he is not an independent witness and he has been in association with the Investigation Officer for more than 4 years and in the absence of any conviction for the offence under Section 7 of the Prevention of Corruption Act, 1988, there cannot be any presumption as contemplated under Section 20 of the Act.

9. Per contra, the learned Special Public Prosecutor appearing for the respondent/C.B.I placed reliance on the counter affidavit and contended that the respondent has registered the above crime for the alleged offence under Section 7 of the Prevention of Corruption Act and during investigation, they have cited 28 witnesses, 25 documents



and 6 material objects to prove the allegation against the appellant/accused and there was a trap in this case. In fact, P.W.5 Mrs.K.Bindhu was appointed as a Trap Laying Officer. They conducted the trap against the appellant and appellant was caught red-handed on 09.04.2018 at 7.30p.m at Amma Unavagam, Adjacent to Sivan Par, K.K.Nagar, Chennai to show that there was demand and acceptance of illegal gratification from P.W.2 de-facto-complainant and in the course of trial, the prosecution had examined P.W.1 to P.W.16 marked as Exs.P1 to P13 and M.O.1 to M.O5 were marked. The defence also appears to have marked D1 to D3.

10. The learned Senior Advocate appearing for the petitioner/appellant has drawn my attention to the cross-examination of P.W.4 P.Baskar and also placed reliance upon the answer given by the accused under Section 313 of Cr.P.C.

11. The learned Senior Counsel also drew my attention to the finding of the learned Special Judge for CBI cases with regard to his observation about Section 7 of the Prevention of Corruption Act on the facts and circumstances of the case and relied upon the following decisions:

(i).(2013) 14 SCC 153 - State of Punjab Vs. Madan Mohan Lal Verma

(ii).(2016) 1 SCC 713 - N.Sunkanna Vs.State of Andhra Pradesh and

(iii).2009 (1) MWN (Cr.) 324 - S.P.Paulraj Vs. State represented by the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Ramanathapuram.

12. Taking into consideration the rival submissions made by both the parties and the findings rendered by the trial Court regarding Section 7 of the Prevention of Corruption Act and the ratio laid down in the above said decisions, I find that there are arguable points in the appeal and the same cannot be taken up immediately and also taking note of the fact that the petitioner being a senior citizen, is suffering from old age ailments and taking treatment, apart from that, he is an Asthma patient and also taking medicines regularly, I am inclined to grant bail to the petitioner on payment of Rs.3 lakhs to be deposited before the trial Court within a period of four weeks from the date of receipt of a copy of this order.

13. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel and the learned Government Advocate (crl.side), this Court is of the view that the substantive sentences of imprisonment alone can be suspended on certain conditions.



14. Accordingly, till the disposal of the Criminal Appeal, the substantive sentences of imprisonment alone is suspended and the Petitioner/accused is ordered to be enlarged on bail, on the following conditions:-

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i. The Petitioner/Accused shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only), with two sureties each for a like sum to the satisfaction of the learned Principal Special Judge for CBI cases, VIII Additional City Civil Court, Chennai.

ii. The Petitioner/accused shall report before the said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders and

iii. The petitioner shall deposit Rs.3 lakhs before the trial Court within a period of four weeks from the date of receipt of a copy of this order and on payment of the same, he shall be released forthwith.

-sd/-

21/06/2022

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 PRINCIPAL SPECIAL JUDGE FOR CBI CASES,
VIII ADDITIONAL CITY CIVIL COURT,
CHENNAI

2 THE CENTRAL BUREAU OF INVESTIGATION,
REP. BY THE INVESTIGATING OFFICER,
SUPERINTENDENT OF POLICE,
ANTI CORRUPTION BRANCH,
SASTRI BHAVAN, NUNGAMBAKKAM,
CHENNAI-600 006.

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



4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

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5 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S.K.R.RAMESH KUMAR Advocate on payment of necessary
charges Sr.9654

Order

in
CRL MP.4610/2022

in
CRL A.384/2022

Date :21/06/2022

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

RVR 21/06/2022