



WEB COPY



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.MP.No.15128 of 2022

in

Crl.A.No.1102 of 2022

1.B.Muthiah
S/o.M.K.Balasubramnian
The then Senior Manager/Chief Manager
Indian Bank, Thousand Lights
Chennai.

R/o.No.91/4, New No.233
Ground Floor
High Road
Ayanavaram
Chennai 23.

Now residing at
C/o.B.Venkateswaran
No.30/16, Welcome Colony,
Anna Nagar West Extn.,
Chennai 600 101.

... Petitioner

Vs.

The Central Bureau of Investigation,
Represented by the Investigating Officer,
Economics Offence Wing, Rajaji Bhavan,
Besant Nagar, Chennai 600 090.
RC.No.4E/98/CBI/EOW/CNI

... Respondent



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

PRAYER: This Petition is filed under Section 389 (1) of Cr.P.C., to suspend the sentence of imprisonment passed by the Court of Principal Special Judge and VIII Additional City Civil Court, Chennai in C.C.No.15 of 2001 dated 16.09.2022 and direct the release of the Petitioner/Appellant/Accused 9 on bail with reasonable conditions, pending disposal of the Appeal.

For Petitioner : Ms.M.Anitha

For Respondents : Mr.K.Srinivasan
Special Public Prosecutor for CBI Cases

ORDER

This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused No.9, seeking suspension the sentence of imprisonment passed by the Court of Principal Special Judge and VIII Additional City Civil Court, Chennai in C.C.No.15 of 2001 dated 16.09.2022 and direct the release of the Petitioner/Appellant/Accused 9 on bail with reasonable conditions, pending disposal of the Appeal.

2.The Petitioner/Appellant is the accused No.9 in C.C.No.15 of 2001 before the learned Principal Special Judge for CBI Cases (VIII Additional City Civil Court), Chennai. He was convicted and sentenced as under:

S.No	Charges	A11/S.Arunachalam
1	Charge No.1 120b r/w 420, 409, 467, 468,	3 years RI and fine of Rs.10,000/- i/d 9 months SI



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

S.No	Charges	A11/S.Arunachalam
	471 r/w 468 IPC & 13(2) r/w 13(1)(d) of PC Act 1988 & 135 of Customs Act	
2	Charge No.8 409 IPC	3 years RI and fine of Rs.10,000/- i/d 9 months SI
3	Charge No.9 13(2) r/w 13(1)(d) of PC Act	3 years RI and fine of Rs.10,000/- i/d 9 months SI
4	Charge No.23 409 IPC	3 years RI and fine of Rs.10,000/- i/d 9 months SI
5	Charge No.24 13(2) r/w 13(1)(d) of PC Act	3 years RI and fine of Rs.10,000/- i/d 9 months SI
6	Charge No.25 409 IPC	3 years RI and fine of Rs.10,000/- i/d 9 months SI
7	Charge No.26 13(2) r/w 13(1)(d) of PC Act	3 years RI and fine of Rs.10,000/- i/d 9 months SI

3.Challenging the above conviction and sentence, the Petitioner/ Accused No.9 filed the Appeal along with the instant Miscellaneous Petition, seeking suspension of sentence and enlarge him on bail.

4.The case against the Petitioner is that the Petitioner is the then Senior Manger/Chief Manager of Indian bank, Thousand Lights, Chennai. The Directors of A1 & A2 company had obtained credit facilities from Indian bank, Thousand Light Branch to the tune of Rs.39.18 crores. The other Accused viz., then Chief Managers, then Senior Managers, then Zonal Manager, then



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

Chairman & Managing Director of Indian Bank along with A11 were conspired with them and extended credit facilities to A3 & A4. The said loan amount has been misappropriated and cheated. Further, for availing credit facilities, A3 & A4 produced false documents showing their credit worthiness, turn over, export bills and other documents. The primary allegation against the Petitioner is that he is being the then Senior Manager/Chief Manager of Indian Bank granted loan to A1 to A4 for the purpose of settling another loan availed by them with Bharath Overseas Bank.

5.Before the trial Court, on the side of the prosecution 61 witnesses examined as P.W.1 to P.W.61 and 785 documents marked as Ex.P.1 to Ex.P.785 and on the side of the accused no one examined and 28 documents marked as Ex.D1 to Ex.D28.

6.On perusal of evidences and available materials on record, the trial Court convicted the Petitioner as stated above.

7.The learned counsel for the Petitioner submitted that the trial Court mechanically convicted the Petitioner, without relevant evidence against him. The Petitioner was not in service in the Branch concerned, during the early



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

period of alleged criminal conspiracy in 1988 and joined the branch only in

1992. The trial Court was failed to note that the sanction was issued by the Managing Committee. The trial Court failed to appreciate the various case laws cited by the Petitioner to hold that the charges are not legally valid.

8.The learned counsel for the Petitioner further submitted that the Petitioner is 73 years old man and is suffering from age related health issues

9.Mr.K.Srinivasan, learned Special Public Prosecutor for CBI cases appearing for the Respondent submitted that Petitioner, who is the then General Manager of Indian bank, Chennai was convicted for offences under section 120b r/w 420, 409, 467, 468, 471 r/w 468 IPC & 13(2) r/w 13(1)(d) of PC Act 1988 & 135 of Customs Act and was sentenced to undergo 3 years Rigorous imprisonment each, for each of the offences. There are seven counts/charges on which the sentence of 3 years Rigorous imprisonment has been imposed on the Petitioner. But for the specific mention in the judgement that the sentences would run concurrently, the total sentences is to the tune of 3 years.

10.He further submitted that the fine imposed on the Petitioner by the Trial Court in judgement dated 16.09.2022 has been paid by the Petitioner.



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

11.Considering the above facts and circumstances of the case and also taking note of the fact that there are arguable points involved in the appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the Substantive Sentence of Imprisonment alone till the disposal of the Appeal.

12.Accordingly, the Substantive Sentence of Imprisonment imposed on the Petitioner is suspended till the disposal of the Appeal and the Petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, each for a like sum to the satisfaction of the learned Principal Special Judge, VIII Additional City Civil Court, Chennai.

13.Further, the Petitioner is directed to appear before the trial Court once in six months, on the first working day of English Calendar month at 10.30 a.m., until further orders.

12.10.2022
(2/2)

Internet : Yes/No
Index : Yes/No
Speaking order/Non-speaking order

sai



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

To

1.The learned Principal Special Judge for CBI Cases
VIII Additional City Civil Court,
Chennai.

2.The Public Prosecutor,
High Court,
Madras.



WEB COPY



Crl.MP.No.15128 of 2022 in Crl.A.No.1102 of 2022

M.NIRMAL KUMAR, J.

sai

Crl.MP.No.15128 of 2022
in
Crl.A.No.1102 of 2022

12.10.2022
(2/2)