IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.15443 of 2022
in
Crl.A.No.1119 of 2022

G.V.Srinivasan ... Petitioner/A-8

Vs.

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

PRAYER: This Petition is filed under Section 389 of Cr.P.C., to suspend the sentence imposed in C.C.No.15 of 2001 dated 16.09.2022 by the learned Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai and enlarge the Petitioner/Appellant on Bail, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.R.Sathish Kumar

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

ORDER

This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused No.8, seeking suspension of sentence imposed in C.C.No.15 of 2001 dated 16.09.2022 by the learned Principal Special Judge for CBI Cases, VIII Additional City Civil Court, Chennai and enlarge the Petitioner/Appellant on Bail, pending disposal of the above Criminal Appeal.

2.The Petitioner/Appellant is the accused No.8 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, 471 r/w 468 IPC & 13(2) r/w 13(1)(d) of PC Act 1988 & 132, 135 of Customs Act	3 years RI and fine of Rs.10,000/- i/d 9 months SI
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.21 409 IPC	3 years RI and fine of Rs.10,000/- i/d 9 months SI
5	Charge No.22 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	3 years RI and fine of Rs.10,000/- i/d

S.No	Charges	A11/S.Arunachalam
	409 IPC	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
The sentences are directed to run concurrently		
Total fine imposed against the petitioner/Accused is Rs.70,000/-		

3.Challenging the above conviction and sentence, the Petitioner/ Accused No.8 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 of Indian Bank, Thousand Lights Branch, Chenani. 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 Chairman & Managing Director of Indian Bank along with A8 were conspired with them and extended credit facilities to A1 to 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 of Indian Bank granted loan to A1 to A4 for the purpose of settling another loan availed by them with Bharath Overseas Bank Ltd.

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 erred in not appreciating oral as well as documentary evidence. The CBI failed to collect evidence to confirm the competent authority to grant sanction order to prosecute against the Petitioner. No documentary evidences adduced by the prosecution to show or connect the petitioner/A-8 into the alleged offences. The petitioner was transferred to Thousand Light Branch of Indian Bank as Senior Manager during 1993 and he was serving in the said position from 22.01.1993 to 10.08.1996 under the branch in-charge, who was Chief Manager/AGM. As per the working arrangement in the branch, the role and responsibility of Senior Manager is only supportive to the Head of the Branch. The Petitioner was not having any powers to sanction, recommend and to reject any proposal. Even prior to 6 years of joining of petitioner/A-8 in the Thousand Lights Branch, i.e. From 1988 onwards the A-1 company was having business account with Thousand Lights Branch and was having the facility of Cash Credit Limit, FBN/FBP, PCL, Bank Guarantee Limit, Letter of Credit and Over Draft Limit. The learned counsel submitted that the Petitioner is 76 years old man and is suffering from age related health issues. Further submitted that the petitioner has paid the fine amount of Rs.70,000/- and the sentence imposed on the petitioner was suspended till 16.10.2022. Further, the petitioner has arguable points and fair chance of success in this appeal. Thus, he prayed for Suspension of Substantive Sentence of Imprisonment imposed on the petitioner till the disposal of the appeal.

8. Learned Special Public Prosecutor for CBI cases appearing for the Respondent submitted that the Petitioner, who is the then Senior Manager of Indian bank, Thousand Lights Branch, Chennai was convicted for offences

under section 120(b) r/w 420, 409, 467, 468, 471 r/w 468 IPC & 13(2) r/w 13(1)(d) of PC Act 1988 and 132 & 135 of Customs Act and was sentenced to undergo 3 years Rigorous imprisonment, 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. 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.

9.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.

10.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 for CBI Cases, VIII Additional City Civil Court, Chennai.

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

11.10.2022
(2/2)

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

Note: Issue order copy on 13.10.2022

To

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

2.The Public Prosecutor,
High Court,
Madras.

M.NIRMAL KUMAR, J.

rsi

Crl.M.P.No.15443 of 2022
in
Crl.A.No.1119 of 2022

11.10.2022
(2/2)