



CRL.M.P. (MD) No.14393 of 2022
in
CRL.RC. (MD) No.510 of 2022

G.ILANGO VAN, J.

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner by the Chief Judicial Magistrate, Nagercoil, in CC No.39 of 2004, dated 14/03/2007, which was confirmed by the Additional District and Sessions Judge, (FTC), Kanyakumari at Nagercoil in CA No.53 of 2007, dated 30/09/2019.

2.The case of the prosecution in brief:-

The accused is the Proprietor of M/s.VJR Bankers and he collected deposits from the public; The accused induced and enticed the public by making false promise stating that if deposit is made with his firm, they will get higher rate of interest. Believing the above said words, deposits have been made by the public. When the depositors demanded for repayment, the accused refused to repay the same. Based upon the complaint given by the de-facto complainant, the case was registered and after completing formalities of investigation, final report was filed before the trial court.



3. Before the trial court, the prosecution has examined 7 witnesses and marked 11 documents. On the side of the accused, one witness was examined and no document was marked.

4. At the conclusion of the trial, the trial court found the accused guilty, convicted and sentenced him to undergo five years of rigorous imprisonment for each count for the offence under section 420 IPC (4 counts) and to pay a fine of Rs.10,000/- with default clause. He was acquitted from the charge for the offence under section 409 IPC.

5. Aggrieved by the conviction and sentence of the trial court, the accused preferred appeal in CrI.A No.53 of 2007, which was heard by the Additional District and Sessions Judge, (FTC), Kanyakumari District at Nagercoil and by judgment, dated 30/09/2019, dismissed the appeal filed by the accused, confirming the judgment of conviction and sentence passed by the trial court. Aggrieved by the concurrent findings of both the courts, appeal has been preferred before this court. Pending appeal, this criminal miscellaneous petition has been filed seeking suspension of sentence.



6.The learned counsel appearing for the petitioner would submit that the petitioner has already paid a part of the amount that involved in above said crime and so, there is no intention on the part of the petitioner to cheat the depositors.

7.Per contra, the learned Government Advocate (Criminal side) would submit that the petitioner absconded for about 3 years and now only he was secured and this is the tactic adopted by the petitioner.

8.But however, considering the period of incarceration and also considering the fact that no bad antecedent is reported against the petitioner and also considering the fact that it will take some-time to hear the main appeal for disposal, I am inclined to enlarge the petitioner on bail, by suspending the substantive part of sentence. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i)the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only)



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with two sureties each for a like sum to the satisfaction of the Chief Judicial Magistrate, Nagercoil; and

(ii) on the further condition that the petitioner must deposit Rs.3,00,000/- (Rupees Three Lakhs only) to the credit of the Crime No.1 of 2004 before the concerned court at the time furnishing the sureties; and

(ii) on further condition that the petitioner shall appear before the said Court daily at at 10.30 am pending appeal.

02.12.2022

Index : Yes/No
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