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Crl.M.P.No.2521 of 2023

Crl.M.P.No.2521 of 2023

in

Crl.A.No.987 of 2022

M.SUNDAR, J.

and

R.SAKTHIVEL, J.

(Order of the Court was made by M.SUNDAR, J.,)

This order will now dispose of the captioned 'Criminal Miscellaneous Petition' [hereinafter 'Crl.MP' for the sake of brevity, convenience and clarity].

2. Mr.K.Balasubramaniam, learned counsel representing the counsel on record for petitioner and Mr.P.Sidharthan, learned Special Public Prosecutor for Enforcement Directorate cases for respondent are before us.

3. Short facts are that the petitioner in captioned Crl.MP was convicted and imposed a sentence in and by judgment and sentence dated 04.08.2022 made in C.C.No.48 of 2016 on the file of 'Court of Principal Special Judge for CBI Cases (VIII Additional City Civil Court) Chennai', which shall hereinafter be referred to as 'CBI Trial Court' for the sake of convenience and clarity.

4. The petitioner is A4 before CBI Trial Court, conviction and sentence



Crl.M.P.No.2521 of 2023

has been assailed by the petitioner vide aforementioned main appeal namely, Crl.A.No.987 of 2022. Pending main criminal appeal, petitioner along with A3 took out Crl.M.P.No.13577 of 2022 *inter alia* under Section 389(1) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.PC' for the sake of brevity and clarity] seeking suspension of sentence and prayer was acceded to by another Coordinate Division Bench in and by an order dated 02.09.2022. The conditions subject to which suspension of sentence was granted by the other Coordinate Division Bench have been set out by way of an adumbration in paragraph No.8 of 02.09.2022 order and the same reads as follows:

'8. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioners on the following conditions:

- (i) The petitioners shall surrender before the Principal Special Court for CBI Cases (VIII Additional City Civil Court), Chennai, on or before 05.09.2022;*
- (ii) After such surrender, the petitioners shall be released on bail on they executing a bond for a sum of Rs.25,000/- with two sureties, each for a like sum to the satisfaction of the Principal Special Court for CBI Cases (VIII Additional City Civil Court), Chennai;*
- (iii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial*



WEB COPY



Crl.M.P.No.2521 of 2023

Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

- (iv) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court;*
- (v) Independent of Section 317 Cr.P.C., in case of any emergency due to treatment, hospitalization, sudden death of his relatives, etc., the petitioners shall also intimate the jurisdictional police about the details of place of visit, name of the contact person with Aadhar card or any other photo identity of that person along with reasons therefor and the number of days of absence in the locality, before leaving Tamil Nadu;*
- (vi) The petitioners shall furnish their mobile number, which shall not be changed till the issue comes to a logical conclusion and permanent residential address to the police and the trial Court. The petitioners are permitted to change the portability and not the mobile number;*
- (vii) The petitioners shall file an affidavit of undertaking that they will not alienate the property attached by the respondent, until further orders; and*
- (viii) The trial Court shall send a communication to the jurisdictional Sub-Registrar Office about the orders passed by this Court and the undertaking given by the petitioners.'*



Crl.M.P.No.2521 of 2023

WEB COPY

5. Learned counsel for petitioner submits that the captioned Crl.MP has been taken out with a prayer for relaxing condition No.(iv) i.e., subparagraph (iv) of paragraph No.8 of 02.09.2022 order alone. Learned counsel submits that relaxation is not sought for A3, it is sought only for A4 and that is owing to health issues i.e., ailment for the petitioner (A4).

6. Learned Prosecutor submits, on instructions, that conditions adumbrated in paragraph No.8 are being complied with by the petitioner. To be noted, there is no contestation or disputation about petitioner's ailment. However, learned Prosecutor submits that the appeal is pending and therefore, it may not be desirable to completely exempt the petitioner from coming before CBI trial Court.

7. We carefully considered the submissions made on both sides. In the light of no disputation qua petitioner's ailment and other conditions being complied thus far, we deem it appropriate to relax the aforementioned condition No.(iv) vide Paragraph No.8 of suspension order dated 02.09.2022 partially in the following manner:



Crl.M.P.No.2521 of 2023

WEB COPY

The petitioner in captioned Crl.MP (Mrs.K.K.Reshma, wife of Mr.A.M.Kaja Hussain) who is A4 in CBI Trial Court shall appear before CBI Trial Court on first working day every quarter at 10.30 a.m. until further orders. On any given day, if the petitioner is not able to appear before the CBI Trial Court for any reason, it is open to the petitioner to file a petition under Section 317 Cr.PC and the same shall be considered on its own merits and in accordance with law by learned Judge presiding over the CBI Trial Court.

8. We deem it appropriate to record that both sides submit that the last appearance of the petitioner pursuant to the aforementioned condition No.(iv) of paragraph No.8 of 02.09.2022 order was on 01.08.2023. This means that owing to partial relaxation we have now granted, the petitioner (A4) will next appear before the CBI Trial Court on 01.11.2023 (Wednesday). For the purpose of specificity and clarity, we make it clear that when we say once in quarter, the next appearance thereafter will be on 01.02.2024 and computation of quarter thereafter will be in this manner.

M.SUNDAR, J.



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Crl.M.P.No.2521 of 2023

and
R.SAKTHIVEL, J.

mk

Captioned Crl.MP is disposed of in the aforesaid manner.

mk

[M.S.J.,] [R.S.V.J.,]
30.08.2023

Crl.M.P.No.2521 of 2023
in
Crl.A.No.987 of 2022