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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrL.M.P.No.8685 of 2023
in CrL.A.No.668 of 2023

M.Kumaran

... Petitioner/Appellant

Vs.

State Represented by,
The Inspector of Police,
CBI/ACB/Chennai.
R.C.No.16/A/2008

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) & 439 of Cr.P.C., pleaded to suspend the sentence imposed against the petitioner in CC.No.08 of 2009 dated 30.09.2021 by the learned II Additional District Judge Court, (CBI Cases) Coimbatore and enlarge the petitioner on bail till the disposal of the above appeal.

For Petitioner : Mr.C.D.Johnson

For Respondent : Mr. K.Srinivasan
Spl.Public Prosecutor for CBI Cases

ORDER

This Criminal Miscellaneous Petition has been filed by the



petitioner/appellant, seeking suspension of sentence, till the disposal of the appeal by enlarging the petitioner on bail connected in CC.No.08 of 2009 dated 30.09.2021 by the learned II Additional District Judge Court, (CBI Cases) Coimbatore

2. The conviction and sentence imposed against the petitioner/appellant is as follows:-

<i>Under Section</i>	<i>Sentence</i>
120-B r/w 420, 419, 467, 468, 471 of IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	Three years of rigorous imprisonment with a fine of Rs.50,000/- for each of the offences (Rs.50,000 x 6 = Rs.3,00,000/-) in default, to undergo six months simple imprisonment.

3. The learned counsel for the petitioner would submit that the petitioner was convicted on 30.09.2021 and sentenced to undergo 3 years Rigorous Imprisonment and the Trial Court has also imposed a fine amount of Rs.3,00,000/- (Rs.50,000 x 6). Though the Trial Court had suspended the sentence for one month, the petitioner was unable to raise funds to pay the fine amount and thereby, he is still languishing in jail. He would further submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the



petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal and hence, the sentence imposed against the petitioner/appellant may be suspended and the petitioner/appellant may be enlarged with bail.

4. Learned Special Public Prosecutor for CBI Cases, appearing for the respondent submitted that the petitioner is arrayed as A2 in this case. The co-accused A3 had filed CrI.A.No.517 of 2021 and he has paid the fine amount and is sentence of imprisonment has been suspended.

5. Heard the learned counsel for the petitioner/appellant and the learned Special Public Prosecutor for CBI Cases appearing for the respondent and perused the materials on record.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner/appellant, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence of imprisonment and bail are granted, on the following conditions :-



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- i. The petitioner/appellant shall deposit the fine amount of Rs.3 lakhs (Rupees Three Lakhs only) at the time of furnishing sureties.
- ii. The petitioner/appellant shall execute bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only), with two sureties, each for a like sum to the satisfaction of the learned II Additional District Judge, (CBI Cases) Coimbatore.
- iii. The petitioner/appellant shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

7. The Criminal Miscellaneous Petition is ordered accordingly.

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To

1. The II Additional District Judge,
(CBI Cases) Coimbatore.
2. The Inspector of Police,
CBI/ACB/Chennai.
3. The Superintendent,
Central Prison, Coimbatore.
3. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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