



CRL MP(MD) No.9331 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twelfth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.9331 of 2023

in

CRL A(MD) No.493 of 2023

1 GUNASEELAN

... Petitioner / Appellant / Accused No.6

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
CBI : SCB,
CHENNAI.
(RC 9 (S) 2010)

... Respondent / Respondent / Complainant

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed by the judgment dt 12.06.2023 made in C.C.No.7/2012 on the file of IInd Additional District Court (CBI Cases) Madurai and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL A(MD) No.493 of 2023:

To call for the records relating to the Judgment dated 12.06.2023 made in C.C.No.7 of 2012 on the file of the IInd Additional District Court (CBI Cases), Madurai and set aside the conviction and sentence imposed against the Appellant / Accused No.6 and allow the appeal by acquitting the Appellant / Accused No.6.

Order : This criminal miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.THIRUMAHILMARAN.P, Advocate for the petitioner and of



CRL MP(MD) No.9331 of 2023

Mr.N.MOHIDEEN BASHA, Special Public Prosecutor for CBI Cases on behalf of the Respondent, the court made the following order:-

Reserved on : 21.11.2023

Pronounced on : 12.12.2023

The petitioner has filed this petition to suspend the sentence imposed against him by the II Additional District Court (CBI Cases), Madurai in C.C.No.7 of 2012 by judgment dated 12.06.2023 and enlarge him on bail pending disposal of the Criminal Appeal.

2.The brief facts of the prosecution case:

During the period 2005-2008, the petitioner was working as Manager of the Syndicate Bank, Dindigul Main Branch. By abusing his official position, and without making proper verification of loan documents, on obtaining illegal gratification of amounts, he disbursed loans to co-accused and other witnesses and thereby caused wrongful loss to the bank to the tune of Rs.1,06,83,052/-. The petitioner was arrayed as Accused No.6. On source information the respondent registered the case and laid a charge sheet against the petitioner and other accused. The petitioner was charged for the offence under Section 120 B r/w 420 IPC and Section 8, 13(2) r/w 13(1) (d) of the Prevention of Corruption Act.

3. To prove the charge, the prosecution examined 27 witnesses as P.W.1 to



CRL MP(MD) No.9331 of 2023

P.W.27 and marked 76 exhibits as Ex.P1 to Ex.P76 and no MO was marked. On the defence side, D.W.1 and D.W.2 were examined and Ex.D.1 to Ex.D.9 were marked.

4. After considering both sides evidences and both side arguments, the Trial Court has found the petitioner guilty for the offence under Section 120 B r/w 420 of IPC and Section 7 and 13(2) r/w 13(1)(d) of P.C.Act,1988 and convicted and sentenced him to undergo rigorous imprisonment for a period of 7 years and to pay a fine of Rs.25,000/-, in default, to undergo rigorous imprisonment for a period of 9 months and for substantive offence punishable under Section 7 of P.C.Act, 1988 sentenced to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.25,000/-, in default, to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.25,000/-, in default, to undergo rigorous imprisonment for a period of 9 months and for the substantive offence punishable under Section 13 (2) r/w 13(1)(d) of P.C.Act, 1998 sentenced to undergo rigorous imprisonment for a period of 7 years and to pay a fine of Rs.25,000/-, in default, to undergo rigorous imprisonment for a period of 9 months and ordered the sentence of imprisonment to run concurrently by passing impugned judgment dated 12.06.2023.

5. Aggrieved by the conviction judgment, the petitioner preferred the present Criminal Appeal before this Court. Along with appeal, the petitioner filed this Criminal Miscellaneous Petition seeking for suspension of sentence and for bail till



CRL MP(MD) No.9331 of 2023

the disposal of the appeal.

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6. Heard both sides and perused the records in this Criminal Miscellaneous Petition.

7. The learned counsel for the petitioner has submitted that the petitioner was working as Manager in Syndicate Bank, Dindigul during the occurrence period. The main allegation against the petitioner is that on obtaining illegal gratification amounts, he advanced loan amounts to the co-accused against the properties which fetch far less and thereby the bank could not be able to recover the loans and caused loss to the bank. The auditors Accused Nos.4 and 5 audited the bank accounts and they have not stated any loss to the bank. The petitioner has got power to sanction loans upto Rs.10 lakhs, the loans sanctioned in this case are below Rs.10 loans. Moreover, the alleged properties have now fetched more value than the loan disbursement. So, the bank is able to recover the loans in case of non-repayment by loanees. The petitioner is heart patient and is in prison from 12.06.2023. The petitioner has a fair chance of succeed in the appeal. The co-accused were enlarged on bail by this Court by suspending the sentence. Therefore, the learned counsel for the petitioner prays for suspension of sentence and bail for the petitioner.

8. Per contra, the learned Special Public Prosecutor would contend that the



CRL MP(MD) No.9331 of 2023

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prosecution proved its case against the petitioner/Accused No.6 who has sanctioned huge loans against the properties which are fetching low value. The Trial court has rightly appreciated the evidence and correctly passed the judgment convicting the accused as stated therein. Therefore, he strongly opposed to grant suspension of sentence and bail.

9. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was working as Manager in the bank in question. For the charges that he obtained illegal gratification and sanctioned huge loan to the loanees against their respective property fetching low value. The petitioner states that as of now the value of properties are increased and moreover there is no default in repayment of loans by the loanees, even in case of non-repayment the bank would initiate proceedings against the property, so there is no loss to the bank. During the course of argument, the learned counsel for the petitioner has drawn the attention of the Court to certain grounds of defence. However, these are to be decided while deciding the appeal on merits. At the same time, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is of the year 2023 and the same is not likely to be taken up for final hearing in the near future. The petitioner is in prison from 12.06.2023



CRL MP(MD) No.9331 of 2023

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Admittedly, the co-accused were enlarged on bail by this Court by suspending their respective sentences in this case as per orders passed in CrI.M.P(MD)Nos.10332 of 2023, 9624 of 2023, 12089 of 2023 and 10279 of 2023. In the above circumstances and also considering incarceration period of petitioner, this Court is inclined to consider the relief sought in this petition and holds that the petitioner herein is entitled to the relief of grant of suspension of sentence.

10. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned II Additional District Judge (CBI Cases), Madurai;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and



CRL MP(MD) No.9331 of 2023

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(iii) The petitioner shall appear before the concerned Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

sd/-
12/12/2023

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12/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSD

To

1.The II Additional District Judge (CBI Cases),
Madurai.

2.The Deputy Superintendent of Police,
CBI - SCB,
Chennai.

3.The Superintendent,
Central Prison,
Madurai.

4.The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.THIRUMAHILMARAN, Advocate (SR-17637[I] dated 12/12/2023)



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CRL MP(MD) No.9331 of 2023

ORDER

IN

CRL MP(MD) No.9331 of 2023

in

CRL A(MD) No.493 of 2023

Date :12/12/2023

ED/ /SAR- (12/12/2023) 8P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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