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Crl.M.P.No.386 of 2024 in Crl.A.No.50 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.386 of 2024

in

Crl.A.No.50 of 2024

1.Shri.R.Sekar
2.Shri.K.Anwar Hussain
Petitioners

...

Versus

1. The Central Bureau of Investigation
Represented by
Superintendent of Police,
Anti Corruption Branch
Chennai

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) r/w 439 of Cr.P.C., to suspend the sentence imposed upon the petitioners on 21.12.2023 in C.C.No.36 of 2011 on the file of the Principal Special Judge for CBI Cases/VIII Additional City Civil Court, Chennai till the disposal of the above Appeal and enlarge the petitioners on bail.

For Petitioner ... Mr.V.S.Venkatesh

For Respondent ... Mr.K.Srinivasan, Senior Counsel
Special Public Prosecutor

ORDER



This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the petitioners on 21.12.2023 in C.C.No.36 of 2011 on the file of the Principal Special Judge for CBI Cases/VIII Additional City Civil Court, Chennai till the disposal of the above Appeal and enlarge the petitioners on bail.

2. The conviction and sentence imposed against the petitioners/appellants are as follows:-

Rank	Provisions under which convicted	Sentence
A1	120B IPC read with sections 7 and 8 and Section 13(2) read with 13(1) (d) of Prevention of Corruption Act,1988 - charge No.1 Section 7 of Prevention of Corruption Act, 1988 (charge Nos.2, 4, 6, 8, 10, 12, 14, 16 &18)	A1 found guilty and convicted for the offence punishable under section 120 B of Indian Penal Code read with under section 7, 8 and section 13 (2) read with 13 (1) (d) of Prevention of Corruption Act, 1988 for which sentenced to undergo four years rigorous Imprisonment and also to pay fine of Rs.1000/- (Rupees one thousand) in default they shall undergo six months simple Imprisonment for charge No.1.



<i>Rank</i>	<i>Provisions under which convicted</i>	<i>Sentence</i>
	Section 13(2) read with 13(1) (d) of Prevention of Corruption Act,1988 (Charge Nos. 3, 5, 7, 9, 11, 13, 15, 17 & 19)	A1 is found guilty and convicted for the offence punishable under section 7 of Prevention of Corruption Act, 1988 in seven counts (Charge no.2, 4, 6, 8, 10, 16 and 18) and sentenced to undergo four years rigorous Imprisonment each count and also to pay fine of Rs.1000/- (Rupees one thousand only) for each count in default to he shall undergo six months simple Imprisonment for each count. A1 is found guilty and convicted for the offence punishable under section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988 in seven counts (Charge no. 3, 5, 7, 9, 11, 17 and 19) and sentenced to undergo four years rigorous Imprisonment each count and also to pay fine of Rs.1000/- (Rupees one thousand)



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Rank	Provisions under which convicted	Sentence
		for each count in default to he shall undergo six months Simple Imprisonment for each count. All the sentences imposed on A1 shall run concurrently. If the fine amount is not paid, defaulted sentences shall be run consecutively. The period of detention already undergone by A1 shall be set off under section 428 of Cr.P.C.
A2	120B IPC read with sections 7 and 8 and Section 13(2) read with 13(1) (d) of Prevention of Corruption Act,1988- charge No.1 Section 8 of Prevention of Corruption Act, 1988 - charge No.50	The prosecution has not proved the offence under section 24 (1) (c) of Emigration Act, 1983 (charge No.51 part) against A2 and acquitted under section 248(1) of Cr.P.C. Further A2 convicted for the offence punishable under section 120 B of Indian Penal Code read with under section 7, 8 and section 13 (2) read with 13 (1) (d) of Prevention of Corruption Act, 1988 for



<i>Rank</i>	<i>Provisions under which convicted</i>	<i>Sentence</i>
	Section 24(1)(c) & (g) of Emigration Act, 1983 - charge No.51	which sentenced to undergo four years rigorous Imprisonment and also to pay fine of Rs.1000/- (Rupees one thousand) in default they shall undergo six months simple Imprisonment each for charge No.1. A2 is found guilty and convicted for the offence punishable under section 8 of Prevention of Corruption Act, 1988 (Charge no.50) and sentenced to undergo four years rigorous Imprisonment and also to pay fine of Rs.1000/- (Rupees one thousand) in default he shall undergo six months Simple Imprisonment. A2 is convicted for the offence punishable under section 24 (1) (g) of Emigration Act, 1983 (Charge no.51) and sentenced to undergo one year rigorous Imprisonment and also to pay fine of Rs.1000/- (Rupees one



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<i>Rank</i>	<i>Provisions under which convicted</i>	<i>Sentence</i>
		thousand) in default he shall undergo six months Simple Imprisonment. All the sentences imposed on A2 shall run concurrently. If the fine amount is not paid, defaulted sentences shall be run consecutively. The period of detention already undergone by A2 shall be set off under section 428 of Cr.P.C.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioners in C.C.No.36 of 2011, the petitioners/appellants have filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the appellants submitted that the appellants during the investigation were arrested on 20.07.2009, taken into judicial custody and they were released on bail on 16.08.2009. The appellants have got a good case on merits. He would further submit that the first appellant is a Government Servant and the second appellant is a private person who is



alleged to have acted as a conduit to him. The money belongs to the second accused and it has been accounted for and without there being any evidence to show that there was demand and acceptance, the Trial Court had erroneously convicted the appellants.

5. The respondent has filed their counter affidavit.

6. Mr.K.Srinivasan, the learned Senior Advocate appearing for the respondent submitted that the first accused conspiring with second accused have recieved illegal gratification by way of cash for granting Emigration Clearance. The Appellants 1 and 2 are highly influential persons in the society have committed very serious offences under Indian Penal Code and Prevention of Corruption Act, which affects the morality of the society and also the economy of the country. The Trial Court after properly appreciating the evidences let in by the prosecution have found guilty against the petitioners and opposed for grant of bail.

7. Heard the learned counsel for the appellants and learned Senior Counsel for the respondent and perused the material evidence available on record.



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8. Considering the nature of offence and the petitioners are in custody from 21.12.2023, this Court is of the view that the petitioners are entitled to the relief of suspension of sentence and bail.

9. Accordingly, the relief of suspension of sentence and bail is granted to the petitioners on the following conditions:

- (i) The petitioners/appellants shall execute separate bond for a sum of Rs.50,000/- (Rupees Fifty 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;
- (ii) The petitioners/appellants shall appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

01.02.2024

dhk

Internet: Yes/No

Issue today on 01.02.2024

To

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

2. The Additional Superintendent of Police,
The Central Bureau of Investigation
Anti-Corruption Branch



Chennai

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent, Central Prison,
Puzhal

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A.D.JAGADISH CHANDIRA, J.

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