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CRL MP No. 5964 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2026

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THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL MP No. 5964 of 2026

IN

CRL RC NO. 756 OF 2026

M. Balu
S/o. Muthambalam,
No.20, Gandhipuram 1st Cross,
Palliapalayam,
Komarapalayam Taluk,
Namakkal District.

..Petitioner(s)

Vs

V. Arumugam
S/o. Vedyappan,
No.55/D, Narayana Nagar,
Krishnaveni Thirumna Mandapam Back Side,
E.R. Theatre Road,
Pallipalayam,
Komarapalayam Taluk,
Namakkal District.

..Respondent(s)

Prayer: To suspend the sentence and conviction imposed against the Petitioner by judgment dated 15-12-2025 in Criminal Appeal No.91 of 2025 passed by the learned II Additional District and Sessions Judge Court, Thiruchengode, Namakkal District and enlarge the Petitioner on bail till the disposal of the above Criminal Appeal and thus render justice.

For Petitioner(s):

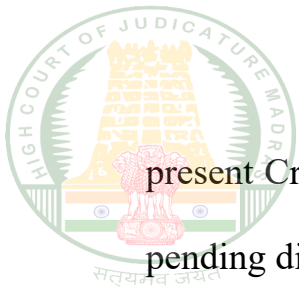
Mr.S.R. Gulshankumar

**ORDER**

This Criminal Miscellaneous Petition has been filed by the Revision Petitioner praying to suspend the sentence imposed on him in the judgment dated 15.12.2025 passed in Criminal Appeal No.91 of 2025 by the learned II Additional District and Sessions Judge, Thiruchengode, Namakkal District, confirming the judgment of conviction, sentence and order dated 30.05.2025 made in S.T.C. No.54 of 2021 by the learned Judicial Magistrate, Komarapalayam, pending disposal of the instant Criminal Revision Petition.

2. By the impugned judgment of conviction, sentence and order passed by the Trial Court, which was subsequently confirmed by the Lower Appellate Court, the Revision Petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act. The petitioner was sentenced to undergo two years' simple imprisonment under Section 255(2) Cr.P.C. and was directed to pay compensation of ₹3,50,000/- (Rupees Three Lakhs Fifty Thousand only) to the complainant within a period of three months, in default, to undergo further simple imprisonment for three months. It is submitted that during the pendency of the appeal, the sentence imposed on the petitioner stood suspended and the petitioner is presently not in custody.

3. Challenging the above said judgment of conviction and sentence, the Revision Petitioner has filed the above Criminal Revision Petition along with the



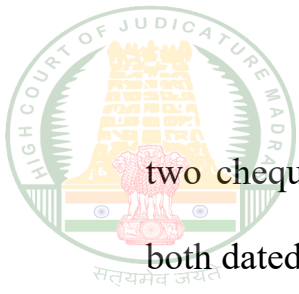
present Criminal Miscellaneous Petition seeking suspension of sentence and bail pending disposal of the Criminal Revision Petition.

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4. Learned counsel for the petitioner submits that the petitioner has already deposited 10% of the cheque amount before the Trial Court in compliance with the conditional order passed by the Lower Appellate Court while suspending the sentence. Thereafter, in compliance with the order passed by this Court dated 11.06.2026, a sum of ₹1,40,000/- (Rupees One Lakh Forty Thousand only), being 40% of the cheque amount, has been deposited before the Trial Court on 13.07.2026. In this regard, she has produced the deposit receipt along with a memo, which is taken on record. She further submits that since the order of this Court has been duly complied with, the petitioner's application seeking suspension of sentence may be favourably considered by this Court.

5. This Court heard the submissions of the learned counsel for the Revision Petitioner and perused the materials placed on record.

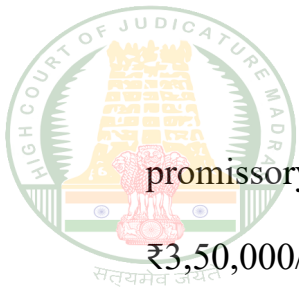
6. The brief facts leading to the filing of the present Criminal Revision Petition are that the respondent/complainant initiated proceedings against the petitioner under Section 138 of the Negotiable Instruments Act alleging that the petitioner had borrowed a sum of ₹2,50,000/- on 19.07.2020 and a further sum of ₹1,00,000/- on 22.07.2020 and, towards discharge of the said liability, had issued



two cheques bearing Nos. 761950 for ₹2,50,000/- and 761973 for ₹1,00,000/-, both dated 30.11.2020. The said cheques, on presentation, were dishonoured with an endorsement of "Funds Insufficient". Hence, proceedings under Section 138 of the Negotiable Instruments Act were initiated, resulting in the conviction of the petitioner by the Trial Court, which was subsequently confirmed by the Lower Appellate Court.

7. Before this Court, the learned counsel for the Revision Petitioner contended that the Courts below failed to properly appreciate the defence taken by the petitioner. It was submitted that the petitioner had never borrowed any money from the respondent/complainant, who is a stranger to him. The specific defence of the petitioner is that he had approached one Mr. Venkatachalam in January 2020 for arranging a business loan of ₹10,00,000/- and had handed over five signed blank cheques as security. Since the said loan was not arranged, the said cheques were allegedly misused in collusion with the respondent/complainant for filing the present false complaint.

8. It was further contended that the Courts below had erroneously placed an onerous burden upon the petitioner to prove his defence beyond reasonable doubt, whereas the petitioner was only required to establish a probable defence to rebut the statutory presumption under Section 139 of the Negotiable Instruments Act. The learned counsel also submitted that the complainant admitted that no



promissory note or any other document was executed for the alleged hand loan of ₹3,50,000/- and that no independent witnesses were present at the time of the alleged transaction, which creates serious doubt regarding the existence of a legally enforceable debt.

9. It is further argued that due to pendency of the criminal cases before this High Court, there is a blinking chance that in the near future, this Criminal Revision Case will be finally heard and decided. It is further submitted that there are arguable points in this Criminal Revision Case and the Revision Petitioner has a fair chance of success in this Criminal Revision Case. Thus, the learned counsel for the Revision Petitioner has prayed for suspension of sentence and bail, till the disposal of this Criminal Revision Petition.

10. It has been assured on behalf of the Revision Petitioner that he is fully ready to cooperate with the process of law, shall faithfully make himself available before the Court whenever required, and is willing to accept any reasonable conditions that this Court may deem fit to impose. The Revision Petitioner further gives an explicit undertaking that in the event he is released on bail, he will not misuse his liberty and will cooperate in the swift disposal of the main Revision.

11. Considering the arguments advanced by the learned counsel for the



Revision Petitioner, this Court is of the view that the lower appellate court failed to properly appreciate the material evidence brought on record through cross-examination and the defense exhibits. While the initial statutory presumption under the Negotiable Instruments Act applies, the accused is legally entitled to discharge his burden of proof on the basis of materials already on record. The categorical finding of the lower appellate court that the project work was left incomplete by the complainant raises a substantial triable issue as to whether the cheque was backed by a legally enforceable debt.

12. Further, it is observed that when an accused is under the imminent threat of incarceration and when there are vital, arguable points raised in the Revision which prima facie favor the defense, the Courts should not shy away from granting a suspension of sentence. The personal liberty of an individual would be irreversibly compromised if the revision eventually results in an acquittal at a later point in time after he has already undergone the sentence. In this regard, the principle laid down by the Hon'ble Supreme Court of India in the case of *Rabi Prakash Vs. The State of Odisha reported in 2023 Live Law (SC) 533* is highly relevant and applicable.

13. The Revision Petitioner has raised substantial legal and factual grounds in the Revision, particularly concerning the misapplication of Section 139 of the NI Act, the rejection of critical documentary evidence, and the complete absence



of the respondent during the appellate stage, all of which require a detailed and microscopic appraisal during the final hearing.

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14. It is further noted that the petitioner has complied with the condition imposed by this Court by depositing a sum of ₹1,40,000/-, being 40% of the cheque amount. The petitioner was granted suspension of sentence during the pendency of the appeal and there is no material to indicate misuse of the liberty granted to him. Considering the fact that the revision raises arguable points and the possibility of early disposal of the Criminal Revision Petition is remote, this Court is of the view that continued incarceration of the petitioner during the pendency of the revision would cause prejudice. The petitioner is therefore entitled to the relief of suspension of sentence.

15. Accordingly, pending disposal of the main Criminal Revision Petition, the sentence imposed upon the Revision Petitioner shall remain suspended on the following conditions:

- i. The Revision Petitioner shall surrender before the learned Judicial Magistrate, Komarapalayam, within a period of three weeks from the date of receipt of a copy of this order. On such surrender, the Revision Petitioner shall be released on bail upon executing a personal bond for a sum of ₹15,000/- (Rupees Fifteen Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate,



Komarapalayam.

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ii. The Revision Petitioner and his respective sureties shall affix their latest photographs and Left Thumb Impressions (LTI) in the bail bonds, and the Court below may obtain copies of their Aadhaar Cards or Bank Passbooks for formally establishing their identity.

iii. The realization of the compensation amount imposed on the Revision Petitioner shall remain stayed during the pendency of the present Criminal Revision Petition.

iv. The Revision Petitioner shall appear before the learned Judicial Magistrate, Komarapalayam, once in every month, i.e., on the 3rd day of every calendar month commencing from September 2026 at 10.30 a.m., until further orders of this Court.

v. Upon formal acceptance of the bail bonds and sureties, the Trial Court shall immediately transmit legible photostat copies thereof to the Registry of this Court to be kept along with the records of this Revision.

16. With the above directions, this Criminal Miscellaneous Petition stands **allowed.**

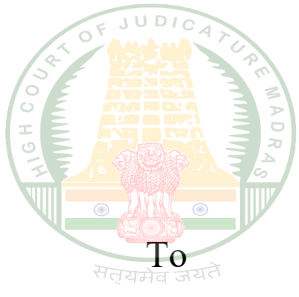
30-07-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

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1. The II Additional District and Sessions Judge, Thiruchengodu.
2. The Judicial Magistrate Court, Komarapalayam.
3. The Public Prosecutor, Madras High Court.



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SHAMIM AHMED, J.

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