

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighth day of November Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.16244 & 16248 of 2019

IN CRL.R.C.NO.1216 of 2019

J.PUNITHA

[PETITIONER IN BOTH THE PETITIONS]

Vs

S.NELSON DOMINIC JOHNSTONE

[RESPONDENT IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence made in Criminal Appeal No.177 of 2015 dated 02.01.2019 on the file of the V Additional Sessions Judge, Chennai in confirming the judgment made in C.C.No.810 of 2012 dated 26.08.2015 on the file of the Metropolitan Magistrate, FTC-II, Egmore, Chennai and enlarge the petitioner on bail pending disposal of Crl.R.C.No.1216 of 2016. (Crl.M.P.No.16244/2019)

(ii) To grant an order of exemption from surrendering before the trial court in pursuance to the order in Criminal Appeal No.177 of 2015 dated 02.01.2019 on the file of the V Additional Sessions Judge, Chennai in confirming the judgment made in C.C.No.810/2012 dated 26.08.2015 on the file of the Metropolitan Magistrate, FTC-II, Egmore, Chennai and enlarge the petitioner on bail pending disposal of Crl.R.C.No.1216 of 2016. (Crl.M.P.No.16248/2019)

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S. V.SAKKARAPANI, Advocate for the petitioner [IN BOTH THE PETITIONS] the court made the following order:-

- 1.These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 02.01.2019 passed in Crl.A.No.177 of 2015, by the learned V Additional Sessions Judge, Chennai, as confirmed in the judgment, dated 26.08.2015, made in C.C.No.810 of 2012, by the Metropolitan Magistrate, Fast Tract Court No. II, Egmore, Chennai and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the

conviction and sentence, imposed by the judgment, dated 02.01.2019, made in CrI.A.No.177 of 2015, by the learned V Additional Sessions Judge, Chennai, respectively, pending disposal of the Criminal Revision Case.

2. This court heard the learned counsel on either side and also perused the materials placed on record.
3. In and by both the impugned judgements, for non-payment of the cheque amount in question, viz. Rs.6,50,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay a sum of Rs.6,50,000/- (Rupees Six Lakh Only), as compensation to the Respondent/complainant, in default, to undergo three months Simple Imprisonment.
4. According to the learned counsel for the Petitioner/accused, there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the Petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the Petitioner may be exempted from surrendering before the Trial Court.
5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions :-
 - a) The Petitioner/Accused shall deposit 50% of the cheque amount (Rs.6,50,000/-), namely, Rs.3,25,000/- (Rupees Three Lakhs Twenty Five Thousand Only) before the Trial Court, within four weeks from the date of receipt of a copy of this order and on such deposit being made the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case.
 - b) Thereafter, the Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai.
 - c) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.
 - d) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the

Trial Court.

- e) On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the Petitioner/Accused into custody for undergoing the sentence.

Post the matter on 06.12.2019, for reporting compliance.

-sd/-
08/11/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE V ADDITIONAL SESSIONS JUDGE,
CHENNAI,

2 THE METROPOLITAN MAGISTRATE,
FAST TRACT COURT NO. II,
EGMORE, CHENNAI

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

+1 C.C. to M/S. V.SAKKARAPANI Advocate on payment of necessary charges SR.NO.22950

Order

in

CRL MP.16244 & 16248/2019

in

CRL.R.C.NO.1216/2019

Date :08/11/2019

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TA-08/11/2019