

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fourth day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.14243 of 2019

in CRL.R.C.NO.1033 of 2019

G.MANI @ MANIKANDAN

[PETITIONER]

Vs

T.MANOKARAN

[RESPONDENT]

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 of imprisonment imposed on the petitioner in the judgment 04.07.2019 made in C.A.No.266 of 2018 on the learned II Additional District and Sessions Court, Erode confirming the judgment dated 25.07.2018 made in STC No.173 of 2016 on the learned the District Munsif-cum-Judicial Magistrate, Kodumudi, enlarge the petitioner on bail pending disposal of the above Crl.R.C.No.1033 of 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.R.PRABAKAR, Advocate for the petitioners, the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 04.07.2019 passed in C.A.No.266 of 2018, by the II Additional District and Sessions Court, Erode, confirming the judgement dated 25.07.2018 made in S.T.C.No.173/2016 by the learned District Munsif cum Judicial Magistrate Court, Kodumudi, 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.2,50,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year simple

Imprisonment.

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. The learned counsel for the petitioner would submit that the petitioner has been arrested and he is in prison and he would submit without prejudice to his contentions, the petitioner is prepared to deposit 30% of the cheque amount in question before the trial court within a time frame to be specified by this 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 suspension of sentence and bail is granted, on the following conditions :-
 - a) 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 District Munsif cum Judicial Magistrate Court, Kodumudi.
 - b) 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.
 - c) The Petitioner/Accused shall deposit 30% of the cheque amount (Rs.2,50,000/-), namely, Rs.75,000/- (Rupees Seventy Five thousand only) before the Trial Court, within two weeks from the date of release on bail 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.
 - 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 25.10.2019 for reporting compliance.

-sd/-
04/10/2019

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 II ADDITIONAL DISTRICT AND SESSIONS
COURT, ERODE,

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
COURT, KODUMUDI,

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE. [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S.R.PRABAKAR Advocate on payment of necessary
charges SR.NO.20796

Order

in

CRL MP.14243/2019

in

CRL.R.C.NO.1033/2019

Date :04/10/2019

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TA-04/10/2019