

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twentieth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NOS.16968 & 16971 OF 2019

IN CRL.RC.NO.1260 OF 2019

P.T.MOIDEEN @ MOIDU

[PETITIONER / ACCUSED]

vs

N.R.SENTHILKUMAR

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1260 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the execution of the sentence of simple imprisonment for six months and as well as the cheque amount Rs.2 lakhs as compensation passed by the Sessions Judge of the Nilgiris, Udhagamandalam in C.A.No.65/2018 dated 29.07.2019 confirming the Judgment and sentence in S.T.C.No.848/2013 on the file of the Judicial Magistrate Court at Udhagamandalam, dated 11/09/2018 for the offence U/S 138 & 142 of the N.I. Act pending disposal of the above CRL.RC.NO.1260 OF 2019 [IN CRL.MP.NO.16968 OF 2019]

[ii] grant exemption to the petitioner from surrender before the trial court in S.T.C.No.848/2013 passed by the Judicial Magistrate Court at Udhagamandalam dated 11.09.2018 and confirmed by the Sessions Judge of the Nilgiris, at Udhagamandalam in C.A.No.65/2018, dated 29/07/2019 until disposal of the above CRL.RC.NO.1260 OF 2019 [IN CRL.MP.NO.16971 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1260 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.P.P.PRAKASH PAUL, Advocate for the petitioner, 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 11.09.2018 passed in C.A.No.65 of 2018, dated 29.07.2019 by the learned Sessions Judge, Nilgiris, Udhagamandalam, as confirmed in STC.No.848 of 2013, by the Judicial Magistrate Court, Udhagamandalam, dated 11.09.2018 and to exempt the Petitioner/ Accused, from surrendering before the Trial Court, in connection with the

conviction and sentence, imposed by the judgment, dated 11.09.2018 passed in C.A.No.65 of 2018, dated 29.07.2019 by the learned Sessions Judge, Nilgiris, Udhamandalam, respectively, pending disposal of the Criminal Revision Case.

2.This Court heard the learned counsel appearing for the petitioner/accused 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.2,00,000/-, the Petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo six months Simple Imprisonment and to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only), as compensation to the Respondent/complainant, in default, to undergo one month 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 for the petitioner, 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.2,00,000/-), namely, Rs.1,00,000/- (Rupees One Lakh 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 Judicial Magistrate Court, Udhamandalam.

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.

6. Post the matter on 18.12.2019 for reporting compliance.

-sd/-

20/11/2019

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 JUDICIAL MAGISTRATE,
UDHAGAMANDALAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NILGIRIS [FOR INFORMATION]

3 THE SESSIONS JUDGE,
NILGIRIS, UDHAGAMANDALAM.

C.C. to M/S.P.P.PRAKASH PAUL Advocate on payment of
necessary charges

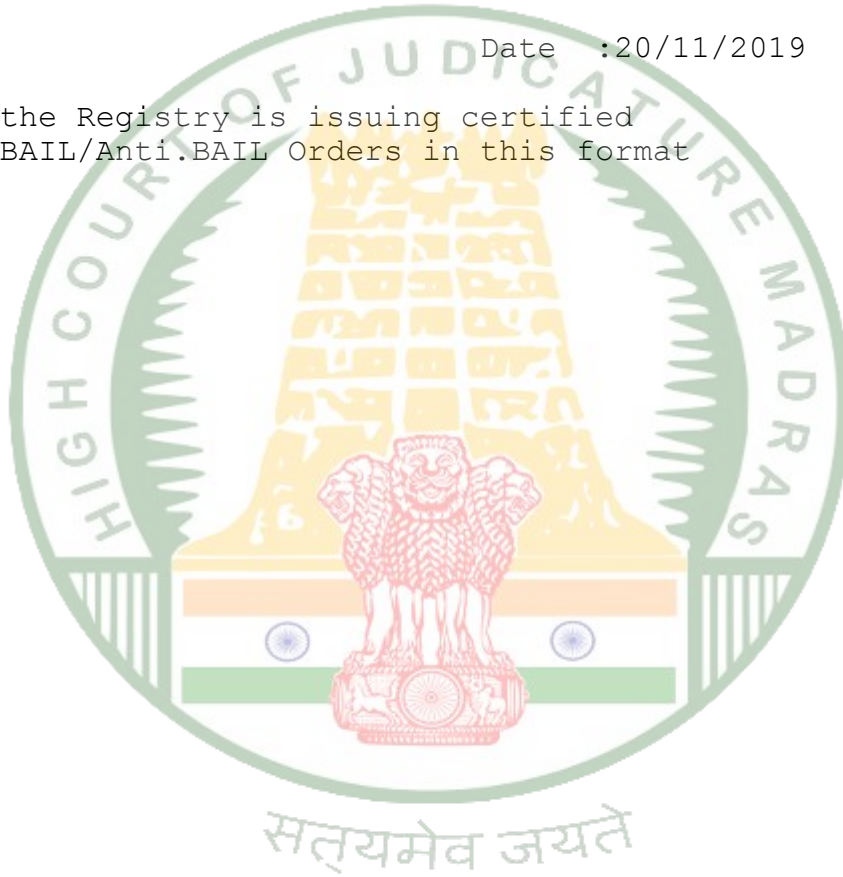
Order

in
CRL MP.16968 & 16971 OF 2019
in
CRL.RC.NO.1260 OF 2019

Date :20/11/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MK:20/11/2019



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