

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fourth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NOS.15565 & 15566 OF 2019

IN CRL.RC.NO.1165 OF 2019

V.SATHESHKUMAR

[PETITIONER / APPELLANT / ACCUSED]

Vs

M.MOIZKARACHIWALA

[RESPONDENT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.1165 OF 2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence of imprisonment imposed in the judgment dated 21.08.2019 made in C.A.No.1 of 2018 on the file of IInd Additional District and Sessions Judge, Erode confirming the conviction imposed the judgment dated 06.12.2017 made in S.T.C. No.163 of 2017 on the file of the Judicial Magistrate Fast Track No.I, Erode and enlarge the petitioner on bail pending disposal of the above CRL.RC.NO.1165 OF 2019 [IN CRL.MP.NO.15565 OF 2019]

[ii] grant an order of exemption from surrendering before the trial court in pursuance to the Judgment dated 21.08.2019 made in C.A.No.1 of 2018 on the file of IInd Additional District and Sessions Judge, Erode confirming the conviction imposed the judgment dated 06.12.2017 made in STC No.163 of 2017 on the file of the Judicial Magistrate Fast Track No.I, Erode and enlarge the petitioner on bail pending disposal of the above CRL.RC.NO.1165 OF 2019 [IN CRL.MP.NO.15566 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.1165 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.J.RANJITH KUMAR, Advocate for the petitioner, the court made the following order:-

1. These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused to suspend the sentence of imprisonment, imposed by the judgement, dated 21.08.2019 made in C.A.No.1 of 2018, by the II Additional District and Sessions Judge, Erode, as confirmed by the judgement dated 06.12.2017, made in STC.No. 163/2017, by the Judicial Magistrate, Fast Track Court No.I, Erode and to exempt the Petitioner from surrendering before the Trial Court dated 21.08.2019, in C.A.No.1 of 2018, by the II Additional

District and Sessions Judge, Erode, respectively, pending disposal of these Criminal Revision Cases.

2. This court heard the submissions made by the learned counsel for the Petitioner and also perused the impugned Judgement.

3. In and by both the impugned judgements of the Trial Court and the Appellate Court, the Petitioner/Accused was convicted for the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo Six Months Simple Imprisonment and to pay an amount of Rs.4,00,000/- [Rupees Four Lakhs Only] as compensation in default to undergo One Month Simple Imprisonment.

4. According to the learned counsel for the Petitioners/Accused, that there are arguable points available in the Criminal Revision Case and that the revision petition is not likely to be taken for final hearing in the near future and that the Petitioners has got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner/Accused may be suspended on condition of depositing some amount. He would submit that without prejudice to his contentions, the Petitioner is prepared to deposit 50% of the cheque amount and would seek six weeks time for making payment.

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 Court, suspension of sentence and bail are granted on the following conditions :-

- a) The Petitioner/Accused shall deposit 50% of the cheque amount, for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) before the Trial Court, within a period of 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 revision petition. 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 each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court No.I, Erode.

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 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.

d) 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 02.12.2019 for "reporting compliance".

-sd/-

04/11/2019

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 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, ERODE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.I, ERODE.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1C.C. to M/S.J.RANJITH KUMAR Advocate on payment of necessary charges SR NO.22739

Order

in
CRL MP.15565 & 15566 of 2019
in
CRL.RC.1165 OF 2019

Date :04/11/2019

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MK:07/11/2019



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