

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fourth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.674 of 2020

IN CRL.R.C.NO.106 of 2020

S.BOOPATHI

[PETITIONER]

Vs

UMAPATHY

[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 imposed in judgment of conviction imposed in the judgment dated 11.12.2019 made in C.A.No.4/2018 on the file of the learned Additional District and Sessions Judge of Dharmapuri by reversing the Judgment of acquittal passed in Calendar Case No.65/2016 by Fast Track Judicial Magistrate of Dharmapuri and may release the Petitioner on bail Crl.R.C.No.106 of 2020.

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.B.MOHAN, Advocate for the petitioner, the court made the following order:-

The petitioner faced trial in C.C.No.65/2016 on the file of learned Judicial Magistrate, Fast Track Court, Dharmapuri. Under judgment dated 30.06.2017, the trial Court acquitted him under Section 138 of the Negotiable Instruments Act. As against the said acquittal, the complainant preferred an appeal in C.A.No.4/2018 before the learned Additional Sessions Judge, Dharmapuri. By judgment dated 11.12.2019, the learned Appellate Judge, convicted the petitioner under Section 138 of the Negotiable Instruments Act and sentenced him to undergo Simple Imprisonment for one year and to pay a compensation of Rs.4,00,000/- along with a fine of Rs.1,00,000/- out of which Rs.3,90,000/- shall be paid to the complainant, in default, the petitioner shall undergo simple imprisonment for a further period of 3 months. As against the aforesaid conviction and sentence, the petitioner has filed the Criminal Revision, along with the present petition seeking suspension of sentence.

2. According to the learned counsel for the Petitioner, there are copious materials on record to prove that there is no legally enforceable debt and the petitioner has rebutted the presumption contemplated under Section 139 of the Negotiable Instruments Act. The learned counsel further submitted that there are arguable points available in the Criminal Revision Case, which is not likely to be taken up for final hearing in the near future and hence, the substantive sentence imposed against the petitioner may be suspended.

3. Heard the learned counsel for the petitioner and also perused the materials placed on record.

4. Considering the facts and circumstances of the case and also taking note of 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 subject to certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of suspension of sentence and bail are granted, on the following conditions:-

- a) The Petitioner/Accused shall deposit Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) before the Trial Court, within two weeks from the date of receipt of a copy of this order;
- b) On such deposit being made, the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalized bank. The disbursement of this amount shall be decided at the culmination of the Criminal Revision Case.
- c) 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, Fast Track Court, Dharmapuri.
- d) 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;
- e) 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 case and if he is not able to appear before the Trial Court on any day, due to unavoidable circumstances, 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 his absence, as directed by the Trial Court. Such an application shall not be entertained often; and
- f) 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 21.02.2020 for reporting compliance.

-sd/-
24/01/2020

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 ADDITIONAL DISTRICT
AND SESSIONS JUDGE OF DHARMAPURI.

2 THE FAST TRACK
JUDICIAL MAGISTRATE, DHARMAPURI.

3 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI. [FOR INFORMATION]

+1 C.C. to M/S. B. MOHAN Advocate on payment of necessary
charges SR.NO.1339

Order
in
CRL MP.674/2020
in
CRL.R.C.NO.106/2020
Date :24/01/2020

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

TA-31/01/2020