

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Seventh day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.906 of 2020

IN CRL.RC.NO.131 OD 2020

N.SHANMUGASUNDARAM

[PETITIONER]

Vs

B.SENTHILKUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.131/2020 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Crl.A.No.193 of 2018 on the file of the learned Ist Additional District and Sessions Judge, Coimbatore in CC.No.163 of 2014 on the file of the learned Judicial Magistrate Fast Track court, No.I @ ML Coimbatore dated 18.09.2019 and enlarge th petitioner on bail till the disposal of Cr.RC No.131 of 2020. [CRL.MP.NO.906/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.131/2020 on the file of the High Court and upon hearing the arguments of MR.N.R.ELANGO SENIOR COUNSEL FOR M/S.E.RAJ THILAK Advocate for the petitioner , the court made the following order:-

By judgment dated 23.04.2018 passed by the Judicial Magistrate, Fast Track Court No.1, Coimbatore in C.C.No.163 of 2014, the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo simple imprisonment for a period of six months and further directed to pay compensation of Rs.20,00,000/- to the complainant within a period of two months, failing which, he shall undergo simple imprisonment for a further period of two months. Challenging the said conviction and sentence, the petitioner preferred an appeal in Crl.A.No.193 of 2018 before the I Additional District and Sessions Court, Coimbatore, which ended in dismissal. Aggrieved over the same, the petitioner has filed the present Criminal Revision Case. He also filed a miscellaneous petition seeking suspension of sentence, pending disposal of this Criminal Revision.

2.According to the learned senior 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 senior 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 senior 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 senior 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 a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) before the Trial Court, within four 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 No.1, Coimbatore;
- 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.
- 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.

5.Post the matter on 27.02.2020 for reporting compliance.

-sd/-

27/01/2020

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 JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.1, COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE[FOR INFORMATION]

+1 C.C. to M/S.E.RAJ THILAK Advocate on payment of necessary charges SR.NO. 1724

Order

in
CRL MP.906/2020

IN CRL.RC.NO.131 OD 2020

Date :27/01/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 03/02/2020

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