



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.12106 of 2021

IN CRL RC.849 of 2021

S.SATHISH

[PETITIONER]

Vs

P.ARUNACHALAM

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Suspend the Sentence of imprisonment imposed on the petitioner in the Judgement dated 22.06.2021 made in CA.No.26/2019 on the file of the Principal Sessions Court, Tiruppur Confirming the Judgment dated 25.01.2019 made in **(*)C.C.No.452/2013** on the file of the Learned Judicial Magistrate Kangayam and enlarge the petitioner on bail pending disposal of the above Crl.R.C.849 of 2021

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 Petitioner the court made the following order:-

The Criminal Miscellaneous Petition Crl.M.P.No.12106 of 2021 has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment, imposed by the judgment dated 25.01.2019 in **(*)C.C.No.452/2013** on the file of the Judicial Magistrate, Kangayam and confirmed by the judgment dated 25.01.2019 in C.A.No.26 of 2019 on the file of the Principal Sessions Court, Tiruppur..

2. This Court heard the learned counsel for the petitioner and also perused the materials placed on record.



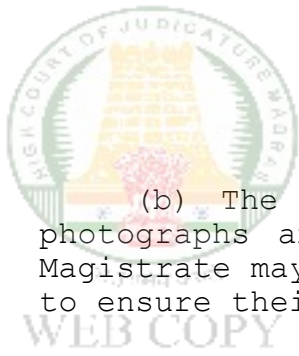
3. In and by both the impugned judgments, for non-payment of the cheque amount in question, viz., Rs.5,00,000/-, the petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay a fine of Rs.5,000/- and in default, to undergo further simple imprisonment for 30 days.

4. Learned counsel for the petitioner would submit that the lower Court had convicted the petitioner by order dated 25.01.2019 against the judgment of conviction and sentence, the petitioner had filed C.A.No.26 of 2019 before the Principal Sessions Court, Tiruppur and the Appellate Court by order dated 22.06.2021, dismissed the appeal and confirmed the judgment of the trial Court. Pursuant to the order, the petitioner was arrested on 30.07.2021 and he is in custody for four months in Central Prison, Coimbatore.

5. 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. He would further submit that since the petitioner is in prison, he is unable to deposit any amount and that without prejudice, he is prepared to deposit 25% of the amount within a period of two weeks from the date of coming out from prison on bail and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the Petitioner may be released on bail.

6. 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, suspension of sentence and bail are granted to the petitioner 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 Judicial Magistrate, Kangayam. Thereafter, the petitioner/Accused shall deposit 25% of the cheque amount (Rs.5,00,000/-), namely, Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only) before the Trial Court, within two weeks from the date of release of the petitioner 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.



(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 shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., 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 Cr.P.C 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.

7. The Criminal Miscellaneous Petition stands ordered accordingly.

8. Notice to the respondent returnable on 22.12.2021. Private notice is also permitted. Post the matter on 22.12.2021 for reporting compliance.

-sd/-

01/12/2021

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.

[*]CORRECTED ORDER TO BE SUBSTITUTED FOR THE ORDER ALREADY DESPATCHED ON 04/01/2022

TO

1 THE PRINCIPAL SESSIONS COURT
TIRUPPUR.

2 THE JUDICIAL MAGISTRATE,
KANGAYAM

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION].



+1 C.C. to M/S R.PRABAKAR Advocate on payment of necessary charges SR.NO.15386

Order

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in
CRL MP.12106/2021
in
CRL RC.849/2021
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Date : 01/12/2021

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

JPA 01/12/2021

RW 05/01/2022