



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Third day of December Two Thousand Twenty One

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13939 of 2021

IN CRL RC.1083/2021

K.SENTHAMARAI KANNAN

[PETITIONER]

Vs

N.JAYASUDHA

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.1083/2021 on the file of the High Court, the High Court will be pleased to suspend the sentence in pursuance to passing of the judgment in Crl.A.No.436/2019 on the file of the XVII Additional District Judge, Chennai dated 18/01/2021 in the nature of confirming the punishment of imprisonment of two months and imposition of compensation of sum of Rs.44,89,285/- made in C.C.No.5383/2017 on the file of the Metropolitan Magsitrate Fast Track Court no.II at Allikulam, chennai dated 02/12/2019 and enlarge the petitioner in bail who was confined in Central Prison at Puzhal, pending disposal of the above CRL RC.1083/2021 IN CRL.MP.NO.13939/2021.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.1083/2021 on the file of the High Court and upon hearing the arguments of MR.K.MANIKANDAN Advocate for the Petitioner the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 02.12.2019 in C.C.No.5383 of 2017 passed by the Metropolitan Magistrate, Fast Track Court No.II, Allikulam, Chennai and confirmed by the judgment dated 18.01.2021 in C.A.No.436 of 2019 on the file of the XVII Additional District Judge, Chennai.

2. In and by the trial court judgment, for non-payment of the cheque amount in question, viz., Rs.44,89,285/- 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 directed to pay Rs.44,89,285/- as compensation to the complainant in default to undergo one month simple imprisonment, the petitioner had filed appeal in C.A.No.436 of 2019 before the XVII Additional District Judge, Chennai and the Appellate Court, by judgment dated 18.01.2021, had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

3. Learned counsel appearing for the petitioner would submit that the cheque amount is for a sum of Rs.44,89,285/-, subsequent to the dismissal of the appeal and confirmation of the conviction and sentence. Pursuant to the issuance of NBW on 25.11.2021, the petitioner was arrested and he is in custody. He would further submit that though there are arguable points available in this case, since the petitioner is in custody, the petitioner is decided to settle the matter amicably with the respondent and without prejudice, the petitioner is also prepared to deposit Rs.5,00,000/- to the credit of C.C.No.5383 of 2017 at the time of furnishing sureties and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the Petitioner may be enlarged on bail.

4. This Court heard the learned counsel for the petitioner and also perused the materials available on record.

5. Considering the facts and circumstances of the case and 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 suspension of sentence and bail are granted on the following conditions:

(a) The petitioner/Accused shall deposit Rs.5,00,000/- (Rupees five lakhs Only) before the Trial Court, at the time of furnishing the sureties 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. 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 Metropolitan Magistrate Fast Track Court No.II, Allikulam, Chennai.

(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.

6. This Criminal Miscellaneous Petition stands ordered accordingly.

-sd/-
23/12/2021

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.

TO

1 THE XVII ADDITIONAL DISTRICT JUDGE,
CHENNAI.

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT NO.II, ALLIKULAM, CHENNAI.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.



+2C.C. to M/S.K.MANIKANDAN
charges SR.NO.15430

Advocate on payment of necessary

WEB COPY

Order
in
CRL MP.13939/2021
in
CRL RC.1083/2021
Date :23/12/2021

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

CSK 23/12/2021