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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twentieth day of December Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.11507 & 11508 of 2021
in
CRL RC(MD) No.953 of 2021

K.N.LOGANATHAN ... PETITIONER/APPELLANT/SOLE
in CRL MP(MD) Nos.11507 & 11508 of 2021

Vs

RAJAM ... RESPONDENT/RESPONDENT
in CRL MP(MD) Nos.11507 & 11508 of 2021

PRAYER IN CRL MP(MD) No.11507 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed on the Petitioner in CA.No.2 of 2020 on the file of the Honorable VIth Additional District and Sessions Judge, Madurai dated 17.04.2021 by confirming the sentence passed by the Learned Fast Track Court No-II (Magistrate Level),Madurai in STC.No.450 of 2017 dated 29.11.2019 and enlarge the petitioner on bail pending disposal of the appeal and thus render justice.

PRAYER IN CRL MP(MD) No.11508 of 2021:

To exempt the petitioner from surrender in CA.No.2 of 2020 on the file of the Honorable VIth Additional District and Sessions Judge, Madurai dated 17.04.2021 by confirming the sentence passed by the Learned Fast Track Court No-II (Magistrate Level),Madurai in STC.No.450 of 2017 dated 29.11.2019 and thus render justice.

PRAYER IN CRL RC(MD) No.953 of 2021:

To call for the records and set aside the conviction in CA.No.2 of 2020 on the file of the Honorable VIth Additional District and Sessions Judge, Madurai dated 17.04.2021 by confirming the sentence passed by the Learned Fast Track Court No-II (Magistrate Level), Madurai in STC.No.450 of 2017 dated 29.11.2019 and acquite the petitioner and pass such other orders as are necessary as the Court may deem fit in the circumstances of the case and thus render justice.

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Order : These petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.AZAGARSAMI.AK, Advocate for the petitioner, the court made the following order:-

It is seen that the petitioner was convicted by the Judicial Magistrate, F.T.C.No.II, Madurai, in S.T.C.No.450 of 2017 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.3,75,000/- (Rupees Three Lakhs and Seventy Five Thousand only) as compensation, by its judgment, dated 29.11.2019.

2.As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.2 of 2020 before the VI Additional District and Sessions Judge, Madurai. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 17.04.2021. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.953 of 2021. Along with the revision, he has filed the present applications (i) for suspension of sentence pending disposal of the said revision (ii) for exempting the petitioner to surrender before the trial Court.

3.The learned counsel for the petitioner fairly conceded that the petitioner is ready and willing to deposit 25% of the cheque amount to the credit of S.T.C.No.450 of 2017, before the Judicial Magistrate, F.T.C.No.II, Madurai, without prejudice to his case.

4.The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

5.Accordingly, Crl.M.P.(MD)No.11507 of 2021 is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i) the petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the Judicial Magistrate, F.T.C.No.II, Madurai, within a period of four weeks from today;

(ii) the petitioner shall deposit of sum of Rs.93,750/- (Rupees Ninety Three Thousand Seven Hundred and Fifty only) to the credit of in S.T.C.No.450 of 2017, before the Judicial Magistrate,

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F.T.C.No.II, Madurai, within a period of four weeks from today;

(iii) On deposit of the aforesaid amount, the petitioner is directed to execute 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, F.T.C.No.II, Madurai.

(iv) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(v) 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 or until further orders.

(vi) On such deposit, the before the Judicial Magistrate, F.T.C.No.II, Madurai, shall re-deposit the sum of Rs.93,750/- (Rupees Ninety Three Thousand Seven Hundred and Fifty only) in a Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl. R.C.(MD)No.953 of 2021.

6.Accordingly, Crl.M.P.(MD)No.11508 of 2021 is dismissed.

sd/-
20/12/2021

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22/12/2021
Sub-Assistant Registrar (C.S.III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE VIth ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.

2 THE JUDICIAL MAGISTRATE,
F.T.C NO.II (Fast Track Court No.2)
MADURAI.

3 DO THORUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

ORDER IN
CRL MP(MD) No.11507 & 11508 of 2021
in CRL RC(MD) No.953 of 2021
Date :20/12/2021

RS/PN/SAR3(22.12.2021) 3P-4C

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