



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM : JUSTICE N.SESHASAYEE

Crl.M.P.No.1708 of 2022

in Crl.R.C.No.461 of 2021

Devaraj ... Petitioner / Petitioner

Vs.

Venkatesan ... Respondent / Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389 of the Criminal Procedure Code, 1973, seeking to suspend the sentence imposed by the learned III Additional Sessions, Judge, Kallakurichi, in STC.No.25/2018 dated 29.01.2020 in Crl.A.No.4 of 2020 dated 26.04.2021 and to enlarge the petitioner on bail pending disposal of the above Crl.R.C.No.461 of 2021 on the file of this Court.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.K.Chandrasekaran

ORDER

The petitioner who was found guilty of the offence u/s.138 r/w.142 of N.I. Act, was accused of in S.T.C.No.25/2018 before the learned Judicial Magistrate (Fast Track Level) Kallakurichi, was convicted and sentenced to undergo one year simple imprisonment and to pay a sum of Rs.20,00,000/- as compensation to the defacto complainant u/s.357(3) of Cr.P.C., within 2 months and this was confirmed by the learned III Additional Sessions Judge, Villupuram @ Kallakurichi in Crl.A.No.4 of 2020 vide judgment dated 26.04.2021.

2. Challenging the dismissal of the Crl.A.No.4 of 2020, the appellant/accused has filed the present revision along with a petition in Crl.MP.No.7577 of 2021, seeking suspension of sentence and to grant bail to him. This Court Vide order dated 10.08.2021, had granted interim bail to the petitioner, suspending the sentence of imprisonment alone only till 15.09.2021, with certain conditions, of which, one is directing him to deposit the cheque amount of Rs.20,00,000/- (Rupees Twenty Lakhs only) to the credit of S.T.C.No.25 of 2018 on the file of the learned Judicial Magistrate



(Fast Track Court), Kallakurichi, on or before 15.09.2021, failing which, the interim suspension of sentence would stand cancelled without any further reference.

3. Now, the present petition is filed by the petitioner seeking to modify the condition imposed in CrI.MP.No.7577 of 2021 in CrI.R.C.No.461 of 2021 and to suspend his sentence and to enlarge him on bail till the disposal of the revision.

4. The learned counsel appearing for the revision petitioner submitted that the petitioner was unable to run his hotel business due to COVID, and that he suffered huge loss, owing to which he could not mobilise the entire cheque amount of Rs.20,00,000/- forthwith and hence, seeks modification.

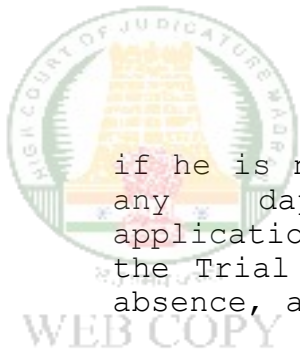
5. Heard both sides. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case, the substantive sentence imposed against the petitioner/accused may be suspended and the petitioner may be exempted from surrendering before the trial Court.

6. The condition the Court imposes necessarily should not be onerous and taking into account the submission made by 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 relief of suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) The revision petitioner is directed to appear before the learned Judicial Magistrate (Fast Track Court) Kallakurichi and deposit 50% of the cheque amount i.e., at the first instance, the revision petitioner is required to deposit 25% of the cheque amount within a period of two weeks from today (11.03.2022), and the second instalment should be deposited within a period of four weeks thereafter, both to the credit of S.T.C.No.25 of 2018 on the file of the learned Judicial Magistrate (Fast Track Court), Kallakurichi.

(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.

5. The Criminal Miscellaneous Petitions stands ordered accordingly. The learned counsel for the revision petitioner is directed to give notice of his deposit amount to the counsel for the respondent herein. Post the matter on 17.03.2022, for reporting compliance.

-sd/-

24/02/2022

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) KALLAKURICHI.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION].

3 THE III ADDITIONAL SESSIONS
JUDGE, KALLAKURICHI.

+1 C.C. to M/S. R.JAYAPRAKASH Advocate on payment of necessary charges SR.NO.2899

Order
in
CRL MP.1708/2022
in
CRL RC.461/2021

Date :24/02/2022

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JPA 28/02/2022