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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.1811 and 4276 of 2022

in Crl.R.C.No.185 of 2022

Senthilkumar

... Petitioner/Accused
[in both Crl.M.Ps]

versus

K.Ganeshbabu

... Respondent/Complainant
[in both Crl.M.Ps]

COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Sections 389(1) r/w 439 and 482 of Cr.P.C., praying to suspend the sentence of imprisonment imposed on the petitioner by the learned III Additional Sessions Judge, Villupuram @ Kallakurichi, in Crl.A.No.72 of 2019 dated 08.04.2021, confirming the order of the learned Judicial Magistrate (Fast Track Court Level), Kallakurichi in C.C.No.54 of 2018 dated 12.09.2019 and to enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition and to exempt the petitioner from surrendering before the trial Court.

For Petitioner : Mr.V.Gunasekar
[in both Crl.M.Ps]

COMMON ORDER

These Criminal Miscellaneous Petitions have been preferred by the petitioner/accused, seeking to suspend the sentence of imprisonment imposed upon him, by judgment and order dated 08.04.2021 passed in Crl.A.No.72 of 2019 by the learned III Additional Sessions Judge, Villupuram @ Kallakurichi, confirming the order of the learned Judicial Magistrate (Fast Track Court Level), Kallakurichi in C.C.No.54 of 2018 dated 12.09.2019 and to enlarge the petitioner on bail and seeking to exempt him from surrendering before the trial Court.

2. The petitioner herein is the accused in C.C.No.54 of 2018 on the file of the learned Judicial Magistrate (Fast Track Court Level), Kallakurichi. He was found guilty of the offence under Section 138 of NI Act and has been convicted and sentenced as under:



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<i>Offence</i>	<i>Sentence</i>
Section 138 of NI Act	Simple Imprisonment for a period of 1 year and to pay Rs.1,00,000/- as compensation to the complainant within a period of three months, in default, to undergo Simple Imprisonment for 3 months

Aggrieved against the same, the petitioner had filed appeal in CrI.A.No.72 of 2019 and the learned III Additional Sessions Judge, Villupuram @ Kallakurichi, by judgment dated 08.04.2021 had dismissed the appeal and confirmed the conviction and sentence, against which the present revision has been filed.

3. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Revision Petition and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision Petition and hence, the substantive sentence imposed against the petitioner/accused may be suspended and the petitioner may be exempted from surrendering before the trial Court. He would submit that the petitioner is ready to abide the condition imposed by this Court.

4. Heard the learned counsel appearing for the petitioner and also perused the materials placed on record.

5. Considering the facts and circumstances of the case, also considering the submissions of the learned counsel for the petitioner, further this revision is not likely to be taken for final hearing in the near future, 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 Petition, the reliefs of suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) The petitioner/accused shall deposit 50% of the cheque amount (Rs.1,00,000/-), to the credit of C.C.No.54 of 2018 before the trial court i.e. the learned Judicial Magistrate (Fast Track Court Level), Kallakurichi 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.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate (Fast Track Court Level), 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; and

(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 appeal 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.

6. With the above directions, these Criminal Miscellaneous Petitions are ordered.

-sd/-

21/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE III ADDITIONAL SESSIONS JUDGE,
VILLUPURAM @ KALLAKURICHI,

2 THE JUDICIAL MAGISTRATE
(FAST TRACK COURT LEVEL), KALLAKURICHI.

3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM. [FOR INFORMATION]

+1 C.C. to M/S. V.GUNASEKAR Advocate on payment of necessary charges SR.NO.5950

Order

in

CRL MP.1811 & 4276/2022

in

CRL RC.185/2022

Date :21/04/2022

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TA-22/04/2022