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*Crl.M.P.No.1527 of 2022
in Crl.RC.No.165 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2022

CORAM:

THE HON'BLE MR.JUSTICE **R.PONGIAPPAN**

Crl.M.P.No.1527 of 2022
in
Crl.RC.No.165 of 2022

P.Vellingiri

...Petitioner/accused

Vs.

N.Mahalingam

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 (1) of Cr.P.C to suspend the sentence to undergo 6 months simple imprisonment imposed and to pay a compensation of Rs.11,00,000/- to the complainant within 2 months and in default to undergo imprisonment for the period of 2 months by the Judicial Magistrate FTC No.I @ ML Coimbatore in CC.No.268 of 2017 dated 23.07.2020 and confirmed by the I Additional District and Sessions Judge, Coimbatore by judgment in CA.No.161 of 2020 dated 15.12.2021 is not suspended, till the disposal of the main criminal revision petition.

For Petitioner : M/s.T.Gnana Banu



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COMMON ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed upon the petitioner by the Judicial Magistrate FTC No.I @ ML Coimbatore in CC.No.268 of 2017 dated 23.07.2020 and confirmed by the I Additional District and Sessions Judge, Coimbatore in CA.No.161 of 2020 by judgment dated 15.12.2021, till the disposal of the above criminal revision petition.

2. The petitioner herein is the accused in CC.No.268 of 2017 on the file of the learned Judicial Magistrate Fast Track Court No.I @ ML Coimbatore. He was found guilty of the offence under Section 138 of NI Act and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Section 138 of NI Act	to undergo simple imprisonment for the period of 6 months and shall pay the compensation of Rs.11,00,000/- as per Section 357(3) of Cr.P.C. payable to the complainant within 2 months from the date of the judgment, failing which shall undergo default sentence of 2 month imprisonment



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Aggrieved against the same, the petitioner had filed appeal in CA.No.161 of 2020 and the learned I Additional District and Sessions Judge, Coimbatore by judgment dated 15.12.2021 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 Case and the petitioner/accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioner/accused may be suspended.

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

5. Previous to filing the revision, the petitioner deposited 20% of the cheque amount before the appellate court. Later on 15.02.2022, when the revision petition is came up for admission, the petitioner is directed to deposit a further sum of 20% as a pre condition to consider this matter for



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admission. Obeying the same, the petitioner has deposited 20% of the cheque amount and produced the copy of the deposit receipt dated 28.02.2022 issued by the Indian Overseas Bank. Therefore considering the bonafideness of the petitioner and also considering the facts and circumstances of the case, 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 case, the reliefs of suspension of sentence and bail are granted 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.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate FTC No.I @ ML, Coimbatore

(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.



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(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.

6. With the above directions, this Criminal Miscellaneous Petition is ordered.

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R.PONGIAPPAN, J.
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To

- 1.The learned I Additional District and Sessions Judge,
Coimbatore
- 2.The learned Judicial Magistrate
FTC No.I @ ML Coimbatore
- 3.The Public Prosecutor,
High Court of Madras

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