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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.1760 & 1762 of 2022

in

Crl.RC.No.181 of 2022

P.Shankar

...Petitioner/Accused

Vs.

S.Suresh Kumar

... Respondent

PRAYER: Criminal Miscellaneous Petitions filed under Section 398 (2) of Cr.P.C to suspend the sentence of imprisonment imposed by the learned Additional District and Sessions Judge, Dharmapuri in C.A.No.16 of 2021 dated 23.12.2021 by confirming the judgment and sentence passed in CC.No.56 of 2016 dated 19.08.2021 by the learned Judicial Magistrate, Fast Track Court, Magistrate Level, Dharmapuri and enlarge the petitioner on bail and to exempt the petitioner from surrendering pending disposal of Crl.RC.No.181 of 2022

For Petitioner : Mr.C.K.M.Appaji

C O M M O N O R D E R

These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence imposed upon the petitioner in C.A.No.16 of 2021 dated 23.12.2021 by the learned Additional District and Sessions Judge, Dharmapuri by confirming the judgment and sentence passed in CC.No.56 of 2016 dated 19.08.2021 by the learned Judicial Magistrate, Fast Track Court, Magistrate Level, Dharmapuri and enlarge the petitioner on bail and seeking to exempt the petitioner from surrendering before the trial court pending disposal of the above revision petition

2. The petitioner herein is the accused in CC.No.56 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court, Magistrate Level, Dharmapuri. He was found guilty of the offence under Section 138 of NI Act and he has been convicted and sentenced as under:



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S.No.	Conviction	Sentence
1	Section 138 of NI Act	to undergo six months simple imprisonment and to pay cheque amount of Rs.10,00,000/- as compensation to complainant within a period of two months, in default to undergo one month simple imprisonment

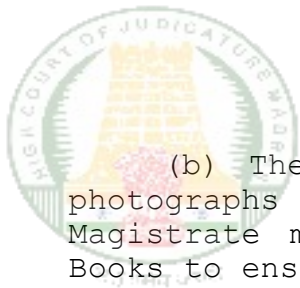
Aggrieved against the same, the petitioner had filed appeal in C.A.No.16 of 2021 and the learned Additional District and Sessions Judge, Dharmapuri dated 23.12.2021 had dismissed the appeal and confirmed the conviction and sentence, against which the present revision has been filed.

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 and the petitioner may be exempted from surrendering before the Trial 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 case, 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.10,00,000/-), namely Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of CC.No.56 of 2016 before the trial court i.e. the learned Judicial Magistrate, Fast Track Court, Magistrate Level, Dharmapuri, within a period of 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.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, Magistrate Level, Dharmapuri



(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.

WEB COPY (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, these Criminal Miscellaneous Petitions are ordered.

-sd/-

16/03/2022

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 JUDICIAL MAGISTRATE,
FAST TRACK COURT (MAGISTRATE LEVEL)
DHARMAPURI

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI (FOR INFORMATION)

3 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, DHARMAPURI



4 THE SECTION OFFICER,
CRIMINAL SECTION, HIGH COURT,
MADRAS.

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+1 C.C. to M/S.C.K.M.APPAJI Advocate on payment of necessary
charges SR.2467

Order

in

CRL MP.Nos.1760 & 1762 of 2022

in

Cr1.RC.No.181 of 2022

Date :16/03/2022

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copies of the BAIL/Anti.BAIL Orders in this format

RVR 17/03/2022