



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.4609 and 4955 of 2022

in Crl.R.C.No.446 of 2022

M.Selvaraj

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

versus

M/s.S.J.Balakrishnan & Co.
Proprietor S.J.Balakrishnan,
Rep. by Power of Attorney Holder,
Saleem,
751, Avinashi Road,
Coimbatore - 641 018.

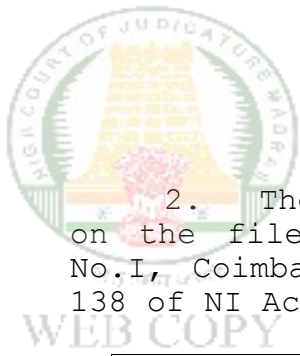
... Respondent /
Complainant
[in both Crl.M.Ps]

COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Sections 397 & 401 of Cr.P.C., praying to suspend the sentence of imprisonment imposed on the petitioner by the IV Additional District and Sessions Court, Coimbatore, in C.A.No.303 of 2017 dated 11.02.2022, confirming the order of the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore in C.C.No.366 of 2014 dated 18.09.2017 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.K.S.Karthik Raja
[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 11.02.2022 passed in C.A.No.303 of 2017 by the learned IV Additional District and Sessions Judge, Coimbatore, confirming the order of the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore in C.C.No.366 of 2014 dated 18.09.2017 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.366 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore. He was found guilty of the offence under Section 138 of NI Act and has been convicted and sentenced as under:

Offence	Sentence
Section 138 of NI Act	Simple Imprisonment for a period of 6 months and to pay Rs.5,41,000/- as compensation to the complainant within a period of two months, in default, to undergo Imprisonment for 2 months

Aggrieved against the same, the petitioner had filed appeal in C.A.No.303 of 2017 and the learned IV Additional District and Sessions Judge, Coimbatore, by judgment dated 11.02.2022 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.5,41,000/-), to the credit of C.C.No.366 of 2014 before the trial court i.e. the learned Judicial Magistrate, Fast Track Court No.I, Coimbatore 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 IV Additional District and Sessions Court, 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; 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.

7. Post these matters on 10.06.2022 "for reporting compliance".

-sd/-
13/04/2022

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 NO.I, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.



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

WEB COPY

C.C. to M/S. K.S.KARTHIK RAJA Advocate on payment of necessary charges

Order
in
CRL MP.NOs.4609&4955/2022
in
CRL RC.446/2022
Date :13/04/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

CSK 13/04/2022