



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.Nos.5498 & 5499 of 2022

in

Crl.RC.No.542 of 2022

1. Y.Joe Karunanithi
2. Sheeba Joe

...Petitioners in both
Petitions

Vs.

K.N.Shanmuga Sundaram

... Respondent in both
Petitions

COMMON PRAYER: Criminal Miscellaneous Petitions filed under Section 389 & 482 of Cr.P.C to suspend the sentence imposed on the petitioners by the judgment dated 06.09.2019 passed in C.C.No.302 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court No.2 @ Magisterial level, Coimbatore and confirmed by the judgment dated 28.02.2022 passed in C.A.No.329 of 2019 on the file of the learned IV Additional District and Sessions Judge, Coimbatore, and release the petitioners on bail and to exempt the petitioner from surrendering pending disposal of the above Criminal Revision Case.

For Petitioner : Mr.S.Sriram

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioners/accused, seeking suspension of sentence imposed by the learned IV Additional District and Sessions Judge, Coimbatore, in C.A.No.329 of 2019 dated 28.02.2022, by confirming the judgment and sentence passed in C.C.No.302 of 2017 dated 06.09.2019 by the learned Judicial Magistrate, Fast Track Court No.2 @ Magisterial level, Coimbatore, and enlarge the petitioners on bail and seeking to exempt the petitioners from surrendering before the trial court pending disposal of the above revision petition.



2. The petitioners herein are the accused in C.C.No.302 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court No.2 @ Magisterial level, Coimbatore. They were found guilty of the offence under Section 138 of NI Act and they have been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Section 138 of NI Act	to undergo simple imprisonment for a period of six months and to pay Rs.3,48,000/- as compensation to the complainant with interest at the rate of 6% per annum from the date of cheque within one month, in default to undergo a simple imprisonment for three months.

Aggrieved against the same, the petitioners had filed appeal in C.A.No.329 of 2019 and the learned IV Additional District & Sessions Judge, Coimbatore, by order dated 28.02.2022 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 petitioners/accused, there are arguable points available in the Criminal Revision Case and the petitioners/accused have got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the Petitioners/accused may be suspended and the petitioners may be exempted from surrendering before the Trial Court. He would submit that the petitioners are ready to abide the condition imposed by this Court.

4. Heard the learned counsel appearing for the petitioners 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 petitioners, 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 petitioners/accused shall jointly deposit 50% of the cheque amount (Rs.3,48,000/-), namely Rs.1,74,000/- (Rupees one lakhs seventy four thousand only) to the credit of C.C.No.302 of 2017 before the trial court i.e., the learned Judicial Magistrate, Fast Track Court No.2 @ Magisterial level, Coimbatore, 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 petitioners /accused are ordered to be released on bail, on their executing a separate 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 No.2 @ Magisterial level, Coimbatore.

(b) The petitioners/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 petitioners 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 they are not able to appear before the trial Court on any day, they 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 the matter on 15.06.2022 "for compliance".

-sd/-
29/04/2022

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 IV ADDITIONAL DISTRICT AND
SESSIONS JUDGE, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.2 @ MAGISTERIAL LEVEL,
COIMBATORE.



3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

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

C.C. to M/S K.GОВI GANESAN Advocate on payment of necessary
charges

Order

in

CRL MP.Nos.5498 & 5499 of 2022

in

Cr1.RC.No.542 of 2022

Date :29/04/2022

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

RW 02/05/2022