



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.5541 & 5543 of 2022

in

Crl.R.C.No.545 of 2022

Agamadou Ibraguime Shuaid

...Petitioner in both Petitions

Vs.

Barvo Logistics (P) Ltd.,
Rep by its Managing Director,
Madhan Kumar,
Block D, 10th Floor, Ega Trade Centre,
New No.318, Old No.809,
P.H. Road, Kilpauk,
chennai - 600 010.

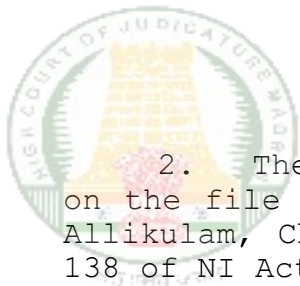
... Respondent in both Petitions

COMMON PRAYER: Criminal Miscellaneous Petitions filed under Section 397(1) & 482 of Cr.P.C to suspend the sentence imposed on the petitioner by the learned Metropolitan Magistrate, Fast Track No.I, Allikulam, Chennai, while convicting the petitioner/accused in C.C.No.6549 of 2017 on 08.11.2017 and confirmed by the learned XXI Additional Sessions Judge, Chennai, in Crl.A.No.421 of 2019 dated 18.03.2022 and enlarge the petitioner on bail and to exempt the petitioner from surrendering pending disposal of the above Criminal Revision Case.

For Petitioner : Mr.S.Santhosh Kumar

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking suspension of sentence imposed by the learned XXI Additional Sessions Judge, Chennai, in C.A.No.421 of 2019 dated 18.03.2022, by confirming the judgment and sentence passed in C.C.No.6549 of 2017 dated 08.11.2019 by the learned Metropolitan Magistrate, Fast Track No.I, Allikulam, Chennai, 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 C.C.No.6549 of 2017 on the file of the learned Metropolitan Magistrate, Fast Track No.I, Allikulam, Chennai. 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 a period of six months and to pay the cheque amount of Rs.43,73,398/- with add Rs.10,00,000/- total amount of Rs.53,73,389/- as compensation u/s. 357 Cr.P.C., in default to undergo a simple imprisonment for 60 days.

Aggrieved against the same, the petitioners had filed appeal in C.A.No.421 of 2019 and the learned XXI Additional Sessions Judge, Chennai, by order dated 18.03.2022 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 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. He would submit that the petitioner is ready to abide the condition imposed by this Court.

4. The learned counsel appearing for the petitioner further submits that the petitioner has already been deposited a sum of Rs.8,74,680/-, being 20% of the cheque amount, before the trial Court. In this regard, he also produced a copy of the receipt issued by the trial Court.

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

6. 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) Since the petitioner already deposited 20% of the cheque amount, the petitioner/accused shall deposit remaining 30% of the cheque amount (Rs.43,73,398/-), namely Rs.13,12,019.40 (Rupees



thirteen lakhs twelve thousand nineteen and forty paise) to the credit of C.C.No.6549 of 2017 before the trial court i.e., the learned Metropolitan Magistrate, Fast Track No.I, Allikulam, Chennai, 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 Metropolitan Magistrate, Fast Track No.I, Allikulam, Chennai.

(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.

(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.

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

8. Post the matter on 17.06.2022 "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 XXI ADDITIONAL SESSIONS
JUDGE, CHENNAI



2 THE METROPOLITAN MAGISTRATE,
FAST TRACK NO.I, ALLIKULAM,
CHENNAI

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI (FOR INFORMATION)

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

+1 C.C. to M/S S.SANTHOSH KUMAR Advocate on payment of
necessary charges Sr.6511

Order

in
Crl.M.P.Nos.5541 & 5543 of 2022

in Crl.R.C.No.545 of 2022

Date :29/04/2022

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

RVR 29/04/2022