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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.14211 of 2021

in

Criminal Revision Case No.1113 of 2021

R.Babu

... Petitioner

..Vs..

P.Sivakumar

... Respondent

PRAYER: Criminal Miscellaneous petition filed under Section 397(1) & 482 of Cr.P.C to suspend the sentence imposed by the Learned Judicial Magistrate, Fast Track Court, Tiruvannamalai, in S.T.C.No.13 of 2018 dated 22.12.2020 and confirming the judgment and sentence by the Principal District and Sessions Judge, Tiruvannamalai in Crl.A.No.5 of 2021 dated 07.12.2021 pending disposal of the above revision and to enlarge the petitioner on bail.

For Petitioner

: Mr.L.Gavaskar

O R D E R

(The case has been heard through video conferencing)

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 22.12.2020 passed in S.T.C.No.13 of 2018 by the Judicial Magistrate, Fast Track Court, Tiruvannamalai and confirmed by the judgment dated 07.12.2021 passed in Crl.A.No.5 of 2021 on the file of the Learned Principal District and Sessions Judge, Tiruvannamalai and to enlarge the petitioner on bail.

2. This Court heard the learned counsel for the petitioner and also perused the materials placed on record.



3. In the trial court judgment, for non-payment of the cheque amount in question, viz., Rs.5,00,000/- the petitioner/accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo six months Simple Imprisonment and to pay a compensation of Rs.5,00,000/- to the complainant and in default sentenced to undergo two months Simple imprisonment. The petitioner had filed appeal in C.A.No.5 of 2021 before the Learned Principal District and Sessions Judge, Tiruvannamalai and the Appellate Court by judgment dated 07.12.2021, had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

4. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future 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 and the petitioner may be exempted from surrendering before the Trial Court.

5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, 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 shall deposit 50% of the cheque amount (Rs.5,00,000/-), namely, Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) before the Trial Court, within three 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.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court, Tiruvannamalai

(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.

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(d) On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the petitioner/accused into custody for undergoing the sentence.

6. This Criminal Miscellaneous Petition stands ordered accordingly. Post the matter after four weeks for reporting compliance.

-sd/-

06/01/2022

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 PRINCIPAL DISTRICT AND
SESSIONS JUDGE, TIRUVANNAMALAI DISTRICT.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT TIRUVANNAMALAI.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI DISTRICT. [FOR INFORMATION]

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

C.C. to M/S.L.GAVASKAR Advocate on payment of necessary charges

Order

in

CRL MP.14211/2021

in

CRL RC.1113/2021

Date :06/01/2022

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

RW 10/01/2022