



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.Nos.14482 & 14484 of 2021

in

Crl.R.C.No.1138 of 2021

S.Palanisamy

... Petitioner

Vs.

M.Vasanthi

... Respondent

PRAYER in Crl.M.P.No.14482 of 2021: The Criminal Miscellaneous Petition is filed under Section 389(1) of the Code of Criminal Procedure, pleaded to suspend the sentence passed in a judgment in Crl.A.No.117 of 2020 dated 15.11.2021 by the III Additional District and Sessions Judge, Erode and confirmed conviction and sentence passed by Learned Judicial Magistrate No.I, Gobichettipalayam in S.T.C.No.20 of 2016 dated 07.11.2020.

PRAYER in Crl.M.P.No.14484 of 2021 : The Criminal Miscellaneous Petition is filed under Section 482 of the Code of Criminal Procedure, pleaded to grant special leave for exemption from surrender for filling this revision petition against the judgment passed in Crl.A.No.117 of 2020 dated 15.11.2021 by the III Additional District and Sessions Judge, Erode and confirmed conviction and sentence passed by Learned Judicial Magistrate No.I, Gobichettipalayam in S.T.C.No.20 of 2016 dated 07.11.2020.

For Petitioner : Mr.M.Muthukrishnan

O R D E R

(This case has been heard through Video Conference)

These Criminal Miscellaneous Petitions have been filed by the Petitioner, seeking suspension of sentence of imprisonment, imposed by the Judicial Magistrate No.I, Gobichettipalayam in S.T.C.No.20 of 2016 dated 07.11.2020 and to exempt the Petitioner, from surrendering before the Trial Court pending disposal of the Criminal Appeal.



2. In and by the trial court judgment, the petitioner was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo six months Simple Imprisonment and directed to pay a sum of Rs.5,00,000/- towards compensation. The petitioner had filed appeal in CrI.A.No.117 of 2020 before the learned III Additional District and Sessions Judge, Erode and the Appellate Court, by judgment dated 15.11.2021, had dismissed the appeal and confirmed the conviction and sentence, against which, the present revision has been filed.

3. Learned counsel for the petitioner would submit that the petitioner has suffered heart attack and that he has been advised to undergo bypass surgery. He would further submit that without prejudice, the petitioner is prepared to deposit 25% of the Cheque amount. 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 has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the petitioner may be suspended and the petitioner may be enlarged with bail and may be exempted from surrendering before the Trial Court.

4. Heard the learned counsel for the petitioner and perused the materials on record.

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 exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions :-

(a) The petitioner/Accused shall deposit 25% of the cheque amount before the Trial Court, 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.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 No.I, Gobichettipalayam.

(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.

(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 five weeks for reporting compliance. The petitioner is directed to produce the medical records for his heart treatment.

-sd/-
07/01/2022

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 III RD ADDITIONAL DISTRICT
AND SESSIONS JUDGE, GOBICHETTIPALAYAM,
ERODE DISTRICT.

2 THE JUDICIAL MAGISTRATE,
NO.I, GOBICHETTIPALAYAM,
ERODE DISTRICT.



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

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

+1 C.C. to M/S. M.MUTHUKRISHNAN Advocate on payment of necessary
charges SR.NO.361

Order

in
CRL MP.14482 & 14484/2021
in
CRL RC.1138/2021

Date :07/01/2022

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

RW 11/01/2022