

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.1767 of 2023

in

Crl.RC.No.812 of 2022

A. Govindaraj ... Petitioner

/vs/

M. Nandakumar .. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioner in C.A.No.21 of 2021 on the file of the IV Additional District and Sessions Judge, Coimbatore, dated 18.03.2022 confirming the judgment passed in C.C.No.509 of 2018 by the Judicial Magistrate, Fast Track Court No.1 at magisterial Level, Coimbatore, dated 07.11.2020, pending disposal of this revision.

For Petitioner ... Mr. B.Kumarasamy for
Mr.B.Gopalakrishnan

For Respondent ... Mr. S.Karthikei Balan

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in C.A.No.21 of 2021 on the file of the IV Additional District and Sessions Judge, Coimbatore, dated

18.03.2022 confirming the judgment passed in C.C.No.509 of 2018 by the Judicial Magistrate, Fast Track Court No.1 at magisterial Level, Coimbatore, dated 07.11.2020, pending disposal of this revision.

2. The petitioner, who was the sole accused in C.C.No.509 of 2018 was convicted and sentenced by the trial court on 07.11.2020 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.138 of NI Act	To undergo SI for six months; he is also ordered to pay the cheque amount of Rs.5,00,000/- to the complainant as compensation u/s.357(3) Cr.P.C within two months from the date of judgment, in default, to undergo SI for two months.

The judgment of conviction and sentence imposed on the petitioner by the trial court was confirmed by the judgment dated 18.03.2022 of the learned IV Additional District and Sessions Judge, Coimbatore in C.A.No.21 of 2021.

3. Challenging the above conviction and sentence, the petitioner has filed the present criminal revision case along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the judgment of the trial court and the lower appellate court is contrary to law, weight of evidence and probabilities of the case. He would further submit that there are arguable points in this Revision and the petitioner has every chance to succeed in this Criminal Revision Case. The petitioner has been now confined under judicial custody. Thus, he prayed for suspension of sentence till the disposal of this Criminal Revision case.

5. Head the learned counsel for the petitioner and perused the materials available on record.

6. The petitioner has raised substantial grounds in the Revision which require detailed appraisal. Further, the Revision is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner is ordered to be released on bail on his

executing own bond for a sum of Rs.10,000/-(Rupees ten thousand only) to the satisfaction of Superintendent of Central Prison, Coimbatore.

- (ii) The petitioner shall affix his photograph and Left Thumb Impression in the bond and the Superintendent of Central Prison, Coimbatore. obtain a copy of his Aadhaar card or Bank pass Book to ensure his identity; and;
- (ii) The petitioner shall appear before the trial Court as and when required.

07.02.2023

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To

1. The IV Additional District and Sessions Judge, Coimbatore,
2. The Judicial Magistrate, Fast Track Court No.1
at Magisterial Level, Coimbatore,
3. The Superintendent, Central Prison, Coimbatore.
4. The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.

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