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Crl.MP No.6019 of 2023 in Crl.RC.No.780 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.6019 OF 2023
IN CRL.RC.NO.780 OF 2023

R.Arunachalam ... Petitioner
vs.

A.K.Palanisamy ... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) Cr.P.C. to suspend the sentence passed by the IV Additional District and Sessions Judge at Coimbatore in Crl.A.No.349 of 2019 dated 09.01.2023 and enlarge the petitioner on bail till the disposal of the revision petition.

For Petitioner : Mr.S.Thirukkumaran

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner seeking to suspend the sentence passed by the learned IV Additional District and Sessions Judge at Coimbatore in Crl.A.No.349 of 2019 dated 09.01.2023 and enlarge the petitioner on bail till the disposal of the revision petition.



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2.The Trial Court, by its order dated 16.05.2019 passed in C.C.No.21 of 2018 convicted the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and the accused was directed to pay a compensation of Rs.1,40,000/- with 6% interest per annum from the date of cheque payable to the complainant within one month from the date of judgment, failing which, undergo three months simple imprisonment. Against which, the petitioner preferred an appeal in Criminal Appeal No.349 of 2019 and the same was dismissed on 09.01.2023 by the Appellate Court. Thereby, the order dated 16.05.2019 passed by the Trial Court in C.C.No.21 of 2018 was confirmed in Criminal Appeal No.349 of 2019 dated 09.01.2023.

3.Challenging the judgment of conviction and sentence, the petitioner preferred the present Criminal Revision along with the instant Criminal Miscellaneous Petition, seeking to suspend the sentence of imprisonment.



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4.The learned counsel for the petitioner submitted that the petitioner had borrowed a sum of Rs.1,40,000/- on 14.06.2016 as hand loan to meet out his family expenses and agreed to repay the same within two months with interest @ 24%. Accordingly, he issued a cheque bearing No.078732 dated 14.09.2016 for a sum of Rs.1,40,000/- drawn on IDBI Bank, Veerapatra Street, Erode Branch. When the respondent presented the cheque for realization, the same was returned with an endorsement “insufficient funds”. Therefore, there are some arguable points in favour of the petitioner in the Criminal Revision Case and hence, prayed for suspension of sentence.

5.Heard the learned counsel appearing for the petitioner and perused the impugned judgments and the the materials available on record.

6.Taking into consideration of the above submission of the learned counsel appearing for the petitioner, this Court finds that the petitioner has substantial grounds in this Criminal Revision Case, which require detailed appraisal. Therefore, this Court is of the view that the



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petitioner is entitled to the relief of suspension of sentence.

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7. Accordingly, till the disposal of the Criminal Revision, the suspension of sentence and bail are granted to the petitioner, on the following conditions:-

(i) The substantive sentence of imprisonment alone is suspended and the petitioner shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, 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 the learned Judicial Magistrate, Fast Track Court – II @ Magisterial Level, Coimbatore.

(ii) The petitioner shall affix his photograph and Left Thumb Impression in the bond and the Trial Court may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity.



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(iii) The petitioner shall appear before the Trial Court as and when required.

8.The Criminal Miscellaneous Petition is ordered accordingly.

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TK

To

The IV Additional District and Sessions Judge
Coimbatore.



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V.SIVAGNANAM, J.

TK

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