



Crl MP No.7013 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.05.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.M.P.No. 7013 of 2023
in Crl.RC.No.878 of 2023

S.M.Kulzar

.. Petitioner

Versus

Sammandam

.. Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 of Cr.P.C to suspend the sentence imposed on the petitioner in conviction Judgment made in Crl.A.No.49 of 2022 dated 25.04.2023 passed by the Hon'ble II Additional District and Sessions Judge, Chidambaram and the confirming judgment made in C.C.No.1 of 2020 dated 10.10.2022 passed by the learned District Munsif cum Judicial Magistrate, Kattumannarkoil and enlarge the petitioner on bail pending disposal of the accompanying Criminal Revision Case.

For Petitioner : Mr.G.Pugazhenth



Crl MP No.7013 of 2023

ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking to suspend the sentence imposed on the petitioner in conviction Judgment made in Crl.A.No.49 of 2022 dated 25.04.2023 passed by the learned II Additional District and Sessions Judge, Chidambaram and the confirming judgment made in C.C.No.1 of 2020 dated 10.10.2022 passed by the learned District Munsif cum Judicial Magistrate, Kattumannarkoil and enlarge the petitioner on bail pending disposal of the accompanying Criminal Revision Case.

2. The petitioner is the sole accused in C.C.No.1 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Kattumannarkoil. She was convicted of the offence under Section 138 of Negotiable Instruments Act, 1881 and was sentenced to undergo six month simple imprisonment and to pay the cheque amount as compensation of Rs.10,50,000/- under Section 357 (3) of CrPC within a period of three months, in default to undergo one month simple imprisonment. Aggrieved over the same, the petitioner has filed the



Crl MP No.7013 of 2023

criminal appeal before the learned II Additional District and Sessions Judge, Chidambaram in Crl.A.No.49 of 2022, which confirmed the sentence imposed by the Trial Court vide Judgment dated 25.04.2023. Hence, the criminal revision.

3. According to the learned counsel for the petitioner, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal and the sentence imposed against the petitioner/appellant may be suspended and she may be enlarged on bail. Further, the learned counsel for the petitioner submitted that the petitioner/appellant is ready to pay 10% of the compensation amount to the credit of C.C.No.1 of 2020 on the file of learned District Munsif cum Judicial Magistrate, Kattumannarkoil; and that the petitioner had deposited 20% of the compensation amount during the pendency of the appeal before the II Additional District and Sessions Judge, Chidambaram.



Crl MP No.7013 of 2023

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4. Considering the facts and circumstances of the case and the submissions of the learned counsel for the petitioner and further the 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:

(a) The petitioner shall surrender before the concerned Court within two weeks from the date of receipt of a copy of this Order and deposit 10% of the compensation amount to the credit of C.C.No.1 of 2020 on the file of learned District Munsif cum Judicial Magistrate, Kattumannarkoil.

(b) On such deposit, the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties, each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Kattumannarkoil.

(b)The petitioner/appellant shall appear before the trial Court on the first working day of



Crl MP No.7013 of 2023

every English Calendar month at 10.30 a.m.,
until further orders.

5. Accordingly, this Criminal Miscellaneous Petition is ordered.

11.05.2023

dhk

Note: Issue Order Copy on 12.05.2023

To

1. The District Munsif cum Judicial Magistrate,
Kattumannarkoil

2. The II Additional District and Sessions Judge,
Chidambaram

3. The Public Prosecutor,
High Court of Madras,
Chennai



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Crl MP No.7013 of 2023

SUNDER MOHAN, J

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Crl.M.P.No. 7013 of 2023

in

Crl.RC.No.878 of 2023

11.05.2023
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