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**Crl.M.P. No.8580 of 2023
in Crl.M.P.No.4900 of 2022
in Crl. A. No.401 of 2022**

**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

(Order of the Court was made by M.SUNDAR,J.,)

This order will now dispose of captioned 'Criminal Miscellaneous Petition' (Crl.M.P. No.8580 of 2023).

2. This order has to be read in conjunction with and in continuation of proceedings made in previous listing on 26.06.2023 (in the captioned Crl.M.P.) which reads as follows:

'Captioned Criminal Miscellaneous Petition has been filed with a prayer to relax one of the conditions imposed by Hon'ble Predecessor Bench vide order dated 11.04.2022 made in aforementioned Crl.M.P.No.4900 of 2022 while suspending the sentence inter alia u/s.389(1) of 'The Code of Criminal Procedure, 1973 (2 of 1974)' [hereinafter 'Cr.P.C' for the sake of brevity and clarity]. To be noted, paragraph 7 of the order made by Hon'ble Predecessor Bench reads as follows:

'7. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and bail is granted to the petitioners on the following conditions:



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- (i) *The petitioners shall surrender before the trial Court within two weeks from the date of receipt of a copy of this order and thereafter, execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the XIV Additional Special Court for CBI Cases under the PML Act, Chennai;*
- (ii) *The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their mobile number, Aadhar card or Bank pass Book to ensure their identity; and*
- (iii) *The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.'*

2. *Ms.C.Jayachithra, learned counsel on record for petitioner submits that relaxation is sought qua condition No.(iii). In support of her contention, learned counsel drew the attention of this Court to paragraph 4 of the support affidavit, which reads as follows:*



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'4. The Petitioner submits that herself and her husband (A1) both were complying the condition as imposed by this Hon'ble court without fail, promptly upto date. The Petitioner is aged more than 63 years and having medical ailments associated with aging. She is not able to appear every month before the Trial court. As well as the Petitioner is having a daughter named D.Anu Preethi, who got married and settled down in Scotland, Australia. She is pregnant with Gestational Diabetes and expecting to deliver the baby in the month of September, 2023. As the Petitioner's daughter is having high-risk pregnancy (Gestational Diabetes) and in need of the support and care of her mother, (the Petitioner herein) during her delivery, the Petitioner is willing to travel to her daughter's residence at Paisley, Scotland. The Petitioner is willing to stay in her daughter's House at Scotland for a period of 6 months to take care of her daughter and the expected grand-child. Hence the present petition seeking relaxation. This Hon'ble Court may consider this application for relaxation sympathetically and dispense with the presence of the Petitioner for period of 6 months in India and also relax the condition to appear before Trial Court on the 1st working day of every month at 10.30 A.M. and may order to appear before the Trial court once in every 6 months.'

3. This Court pointed out that there appears to be a typographical error as it talks about Scotland/Australia. Learned counsel, on instructions, submits that it is a typographical error, regretted the error and submits that it is not Australia but it is Scotland/UK. This submission is recorded.



4. Be that as it may, learned counsel submitted that the petitioner intends to go to Scotland to be with her daughter for six months.

5. Mr.P.Sidharthan, learned Special Public Prosecutor [ED], who accepts notice for the lone respondent requests for time to get instructions and revert to this Court. Request acceded to.

List after one week. List on 06.07.2023.'

3. Today, Ms.C.Jayachitra, learned counsel for petitioner and Mr.P.Sidharthan, learned Special Public Prosecutor for the lone respondent are before us.

4. Adverting to the earlier proceedings, learned counsel for petitioner submits that affidavit of undertaking along with annexures has since been filed. Adverting to this affidavit of undertaking, learned counsel submits that the petitioner has got tourist visa which is valid upto 19.01.2024. Adverting to the affidavit of undertaking, learned counsel submits that in Scotland, the petitioner would be staying with her daughter, name and address are as follows:

*'Mrs.Ap Raj,
Flat G/2, 80 Stock Street,
Paisley, PA2 6NH.'*



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5. Adverting to the counter affidavit dated 14.07.2023, learned Prosecutor submits that the petitioner says she herself is unwell and therefore saying that she wants to travel to take care of her expectant daughter is far-fetched. Learned Prosecutor points out that the petitioner has sought for relaxation of condition 7(iii) qua order made by Hon'ble Predecessor Division Bench on the ground that she has health issues.

6. In response to the above, learned counsel for petitioner submitted that even on a demurrer, it is more of psychological support to her expectant daughter and this is a well established scientific phenomenon.

7. In the light of the response submission of learned counsel for petitioner, we are inclined to accede to the request to relax the condition but we make it clear that we are relaxing condition 7(iii) only upto January of 2024, in other words, condition 7(iii) will get resuscitated in February of 2024 and this means that the petitioner should appear before the Trial Court at 10.30 a.m. on 01.02.2024 and continue to do so on the first working day of every succeeding month at 10.30 a.m. until further orders.



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8. In the light of the narrative, discussion and dispositive reasoning, we relax condition (iii) in paragraph 7 of earlier order dated 11.04.2022 made in Crl.M.P.No.4900 of 2022 in Crl. A. No.401 of 2022 from today till January of 2024 but we make it clear that it will get resuscitated from February of 2024 in the aforesaid manner.

9. We also make it clear that all other conditions put in place by the other Co-ordinate Division Bench in the aforementioned earlier order dated 11.04.2022 in Crl.M.P.No.4900 of 2022 will continue to operate.

10. Captioned Crl.M.P. is disposed of in the aforesaid manner.

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[M.S.J.,] [R.S.V.J.,]
19.07.2023

Note to Registry: UPLOAD on 21.07.2023



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**M.SUNDAR, J.,
and
R.SAKTHIVEL, J.,**

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19.07.2023