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Crl.M.P..No.9706 of 2023 in Crl.R.C. No.1240 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.M.P.No.9706 of 2023 in

Crl.R.C. No.1240 of 2023

S. Francis

...Petitioner

vs.

V. Gokul Babu

...Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. praying to suspend the sentence imposed by the Principal Sessions Court, Krishnagiri dated 17.07.2019 in Crl.A.No.12 of 2018 in STC No.2585/2013 dated 03.02.2018 and enlarge the petitioner on bail pending disposal of the Criminal Revision Petition.

For Petitioner : Mr.Mr. R. Sethuvarayar

ORDER

This criminal miscellaneous petition is filed seeking to suspend the sentence imposed by the Principal Sessions Judge, Krishnagiri, dated 17.07.2019 in Crl.A.No.12 of 2018, confirming the conviction and



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sentence passed by the learned Judicial Magistrate No.I, Krishnagiri, in
STC No.2585/13, dated 03.02.2018, and to enlarge the petitioner on bail.

2. The petitioner, who was the accused in STC No.2585/13, on the file of the Judicial Magistrate No.I, Krishnagiri, was convicted and sentenced on 03.02.2018 as follows:

<i>S.No</i> .	<i>Provision under which convicted</i>	<i>Sentence</i>
1	Section 138 of Negotiable Instruments Act	Simple imprisonment for one year and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for two months.

3. The appeal filed by the present petitioner/accused before the Principal Sessions Court, Krishnagiri, in Crl.A.No.12 of 2018, was also dismissed vide judgment dated 17.07.2019.

4. Challenging the above conviction and sentence, the petitioner/ accused has filed Crl.R.C.No.1240 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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5. The case of the Complainant is that the present petitioner borrowed a sum of Rs.4,25,000/- on 02.09.2013 as loan and issued a cheque for the same on the very same day and while depositing the same, it was returned with an endorsement of "Insufficient Funds". Hence the complaint.

6. Learned counsel for the petitioner contended that the petitioner is undergoing sentence since 16.06.2023 and that he has to be treated for his liver ailment. Hence, he prayed for suspension of sentence and bail.

7. Considering the facts and circumstances of the case, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail with certain conditions.

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

- (i) The petitioner shall pay a sum of Rs.2,00,000/- to the credit of STC No.2585/13 on the file of the Judicial



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Magistrate No.I, Krishnagiri, on or before three weeks from the date of receipt of copy of this order.

- (ii) The petitioner shall 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 Judicial Magistrate No.1, Krishnagiri
- (iii) The sureties shall affix their photographs and Left Thumb Impression on the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iv) The petitioner shall appear before the trial Court everyday at 10.30 a.m. for a period of four weeks and thereafter, the petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the Criminal 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.

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Index : yes/no

Speaking /Non speaking Order



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To
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1. The Judicial Magistrate No.I, Krishnagiri.
2. The Superintendent of Prison, Central Prison, Vellore.



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R.HEMALATHA, J.

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