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Crl.M.P.No.3574 of 2023 in Crl.RC.No.460 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.3574 of 2023

in

Crl.RC.No.460 of 2023

Manoharan

... Petitioner

/vs/

M. Balamurugan

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 374(2) of Cr.P.C., to suspend the sentence imposed in Crl.A.No.78 of 2021 dated 10.02.2022 by the Principal District and Sessions Judge at Salem and imposed in STC No.26 of 2017 dated 03.11.2020 by the Judicial Magistrate Fast Track Court at Omalur.

For Petitioner ... Mr. M. Elango

For Respondent ... No appearance

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment passed against the petitioner in STC No.26 of 2017 dated 03.11.2020 by the Judicial Magistrate Fast Track Court



at Omalur, which was confirmed by the Crl.A.No.78 of 2021 dated 10.02.2022 by the Principal District and Sessions Judge at Salem and enlarge the petitioner on bail, pending disposal of the Criminal Revision Case.

2. The petitioner, who was the sole accused in STC No.26 of 2017 was convicted and sentenced by the trial court 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 pay a fine of Rs.12,50,000/- within three months from the date of pronouncement of judgment, in default, to undergo SI for three months.
		After recovery of fine amount, the same shall be paid as compensation to the complainant

Aggrieved against the judgment of trial court, the petitioner preferred appeal before the Principal District and Sessions Judge at Salem in Crl.A.No.78 of 2021, who, by order dated 10.02.2022, dismissed the same for non prosecution, since there is no representation for the petitioner. While dismissing the appeal, the lower appellate court directed the trial court to issue warrant to the petitioner for execution of remaining sentence. Challenging the above conviction and sentence, the petitioner has filed the present Crl.R.C. along with the instant miscellaneous petition, seeking



suspension of sentence and bail.

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3. 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. Thus, he prayed for suspension of sentence till the disposal of this Criminal Revision Petition.

4. Though the respondent has entered appearance through his counsel, there is no representation for him either in person or through counsel today, when the matter is called.

5. 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.

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



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- (i) The petitioner shall surrender before the Judicial Magistrate, Fast Track Court, Omalur 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 a own bond for a sum of Rs.10,000/-(Rupees ten thousand only) to the satisfaction of the above said Court.
- (ii) The petitioner shall affix his photograph and Left Thumb Impression in the bond and the above said Court may obtain a copy of his Aadhaar card or Bank pass Book to ensure his identity; and;
- (iii) The petitioner shall appear before the trial Court as and when required.

13.03.2023

msr

To

1. The Judicial Magistrate, Fast Track Court, Omalur.
2. The Principal District and Sessions Judge, Salem.



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V.SIVAGNANAM, J.

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