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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.1850 of 2024

R.Semmannan

...Petitioner

Vs.

V.C.Perumal

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside order Returned un-numbered CrI.M.P.F.No.112 of 2024, dated 05.01.2024 on the file of the learned District Sessions Judge, Salem.

For Petitioner : Mr.S.Panneer Selvan

ORDER

This criminal original petition has been filed challenging the returned endorsement, dated 05.01.2024, refusing to entertain the criminal appeal as well as the suspension of sentence filed by the petitioner against the judgment passed by the learned Judicial Magistrate-1, Mettur in C.C.No.69 of 2019, dated 26.12.2023.



2.This Court has carefully considered the submissions made by the learned counsel for the petitioner and also the materials available on record.

3.The petitioner was convicted for offence under Section 138 of the Negotiable Instruments Act in C.C.No.69 of 2019 by the learned Judicial Magistrate-I, Mettur by judgment dated 26.12.2023 and he was sentenced to undergo one year simple imprisonment and to pay a sum of Rs.24,00,000/- as compensation and in default to undergo three months simple imprisonment.

4.When this judgment was passed, the petitioner was not present before the Trial Court and therefore, the Trial Court had issued non-bailable warrant against the petitioner.

5.The petitioner aggrieved by the judgment of the Trial Court, filed a criminal appeal before the learned Principal District and Sessions Judge, Salem. The appeal papers along with the suspension of sentence petition was returned on the ground that a non-bailable warrant is pending against the petitioner and the sentence was not suspended by the Trial Court. Aggrieved by this return endorsement dated 05.01.2024, the present criminal original petition has been filed before this Court.



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6. In the considered view of this Court, filing of the criminal appeal cannot be barred just because there is a non-bailable warrant pending against the petitioner issued by the Trial Court. This factum will have some significance only insofar as the petition for suspension of sentence is concerned. This is in view of the fact that the trial Court had issued non-bailable warrant and sentence was also not suspended. Therefore, there is no scope for suspending the sentence pending the criminal appeal and the petitioner has to necessarily seek for bail by surrendering before the Court below.

7. In the light of the above discussion, there shall be a direction to the petitioner to re-present the criminal appeal papers before the learned Principal District and Sessions Judge, Salem. The petitioner shall also file a bail application along with criminal appeal and shall surrender before the learned Principal District and Sessions Judge, Salem. This process shall be completed by the petitioner on or before 09.02.2024.

8. Upon such surrender, the learned Principal District and Sessions Judge, Salem, shall grant interim bail to the petitioner subject to the condition that the petitioner deposits 20% of the compensation amount within a period of 60 days



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N.ANAND VENKATESH, J

ssr

thereafter. If the petitioner deposits the compensation amount within the time frame fixed by the Court below, the bail order shall be made absolute by imposing necessary conditions, and if the petitioner fails to deposit the compensation amount within the time frame fixed, the Court below shall cancel the interim bail and secure the petitioner to undergo the sentence.

9.This criminal original petition is disposed of with the above directions.

02.02.2024

Index: Yes/No

Speaking order/Non-speaking Order

Neutral Citation: Yes/No

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Note:Issue Order Copy on 05.02.2024

To

1.The District Sessions Judge, Salem

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P No.1850 of 2024