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Crl.M.P.No.2600 of 2024 in Crl.R.C.No.270 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.2600 of 2024
in
Crl.R.C.No.270 of 2024

Kumaresan

... Petitioner

Vs.

Mr.S.Balaji

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Sections 389(1) of Cr.P.C to suspend the sentence imposed on the petitioner in C.C.No.488 of 2014 by an order dated 10.05.2017 on the file of Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore and confirmed in Criminal Appeal No.127 of 2017 on the file of V Additional District and Sessions Judge, Coimbatore by a Judgment dated 17.07.2019 and release the petitioner on bail pending disposal of the above Criminal Revision.

For Petitioner : Mr.K.Balasubramaniam

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence of imprisonment imposed on him in C.C.No.488 of 2014 by a order dated 10.05.2017 passed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore



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and confirmed by the learned V Additional District and Sessions Judge, Coimbatore made in Crl.A.No.127 of 2017 dated 17.07.2019 and enlarge the petitioner on bail pending disposal of the above revision.

2.The petitioner, who is an accused in C.C.No.488 of 2014 in a private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, was convicted by the learned Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore by judgment dated 10.05.2017 and sentenced to undergo one year simple imprisonment and directed to pay fine of Rs.5,000/-. Aggrieved against the same, he preferred an appeal before the learned V Additional District and Sessions Judge, Coimbatore in Crl.A.No.127 of 2017. The learned Sessions Judge, by judgment dated 17.07.2019, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, the petitioner/accused filed Crl.R.C.No.270 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.The contention of the petitioner is that the respondent complainant and his brother Mr.Sivakumar had filed each one case against the petitioner



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under Section 138 of the Negotiable Instruments Act. Both the cases ended in conviction. As regards the respondent herein, the petitioner had filed Crl.A.No.127 of 2017 and as regards his brother, he has filed Crl.A.No.18 of 2023. However, C.A.No.127 of 2017 was dismissed confirming the trial Court Judgment on 17.07.2019. Thereafter, the petitioner had approached both the respondent Balaji as well his brother Sivakumar and settled a sum of Rs.3,00,000/- for both the cases. He has also produced a copy of the receipt. As regards the case in C.C.No.448 of 2014, the check amount is Rs.1,41,250/-

4.The petitioner was remanded to judicial custody on 06.12.2023 and thereafter, the petitioner has approached the respondent and his brother on 12.12.2023 and the amount has been settled. Now, the respondent is not co-operating to file a petition under Section 147 CrPC to compound the offense to withdraw the complaint as per the earlier understanding, due to which, the petitioner is lying in the prison despite settling the check amount. Therefore, this Court is inclined to suspend the sentence imposed on the petitioner.



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5. Accordingly, the relief of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal Revision:

(a) the petitioner is ordered to be enlarged on bail, on condition that he shall execute own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) to the satisfaction of the Superintendent of Prison, Central Prison, Coimbatore.

(b) The petitioner is directed to appear before the trial Court on the first working day of every English calender month at 10.30 a.m., until the disposal of the criminal revision case and if he is not able to appear before the Trial Court on that 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.

6. Accordingly, this Criminal Miscellaneous Petition is ordered.

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Tsg



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To

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- 1.The V Additional District and Sessions Judge,
Coimbatore.
- 2.The Judicial Magistrate Fast Track Court
at Magisterial Level II, Coimbatore.
- 3.The Superintendent, Central Prison, Coimbatore.
- 4.The Public Prosecutor, High Court, Madras.



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M. NIRMAL KUMAR, J.

Tsg

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