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Criminal Original Petition No.5088 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.5088 of 2024

Sudhakaran

... Petitioner

Vs.

Sangeeth Kumar

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for records relating to the order dated 16.02.2024 made in CrI.M.P.No.5075 of 2024 in CrI.A.No.127 of 2024 by the Court of Principal Sessions Judge, Chennai and set aside the same.

For Petitioner : Mr.S.Senthilvel

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in CrI.M.P.No.5075 of 2024 in CrI.A.No.127 of 2024, dated 16.02.2024 dismissing the application filed



by the petitioner seeking for suspension of sentence pending disposal of the appeal.

2. The petitioner was convicted for offence u/s.138 of the Negotiable Instruments Act by the learned Metropolitan Magistrate, FTC II, Egmore, Allikulam, Chennai, through judgment dated 06.02.2024 and was sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.5,00,000/- to the complainant as compensation within 30 days, in default, to undergo two months simple imprisonment. On the date of judgment, the petitioner was absent and hence, non-bailable warrant was issued against him. Aggrieved by the same, the petitioner filed an appeal in C.A.No.127 of 2024 on the file of Principal Sessions Judge, Chennai. The petitioner also filed an application seeking for suspension of sentence. The Court below had dismissed the application mainly on the ground that the petitioner has not surrendered before the Court and once conviction warrant has been issued, the sentence cannot be suspended by the trial Court as well as the appellate Court. Aggrieved by the same, the present petition has been filed before this Court.



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

4. Learned counsel for petitioner submits that the case has been made over to I Additional Sessions Court, Chennai.

Taking into consideration the facts and circumstances of the case, this Court disposes of the present petition in the following terms:

- (a) the petitioner is directed to surrender before the I Additional Sessions Court, Chennai, on or before 08.03.2024 and file a bail application before the concerned Court;
- (b) the petitioner shall deposit 20% of the compensation amount fixed by the trial Court within a period of 60 days, to the credit of S.T.C.No.10409 of 2022;
- (c) the I Additional Sessions Court, Chennai, shall grant interim bail to the petitioner for a period of 60 days;
- (d) if the petitioner deposits the compensation amount within the period of 60 days fixed by this Court, the bail order shall be made absolute by imposing necessary conditions; and



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N.ANAND VENKATESH, J

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(e) if the petitioner fails to deposit the compensation amount as directed by this Court, interim bail order shall stand cancelled and the Court below shall make the petitioner to undergo the sentence imposed by the trial Court.

04.03.2024

Note: Issue order copy by 05.03.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

1.The Principal Sessions Judge
Chennai.

2.The I Additional Sessions Court,
Chennai.

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