



Crl.MP.No.11021 of 2024

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M.DHANDAPANI, J.

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioner.

2. Learned counsel for the petitioner submitted that, this Court, vide order dated 01.08.2024 made in above miscellaneous petition, suspended the substantive sentence of imprisonment imposed on the petitioner on condition that the petitioner shall deposit 50% of the compensation awarded by the trial court and further directed the petitioner to appear before the trial court and execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Mettur and further directed the petitioner to appear before the said court at 10.30 am on the 1st working day of every English Calendar month on the pretext that, the petitioner is not in jail. However, it is pertinent to note that, the petitioner was arrested and remanded to judicial custody as early as on 09.07.2024 and he is currently confined in Central prison, Salem, which fact was not brought to the notice of this Court. Accordingly, he prayed for appropriate modification in the order dated 01.08.2024 made in Crl.MP.No.11021 of 2024.

3. Though the petitioner seeks modification of the said order, when it is pertinent to point out that this Court has granted an order of Suspension



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skt

of sentence by imposing conditions which are relatable to grant of Bail, merely because the petitioner has been arrested prior to the grant of Suspension of Sentence, it will not be a ground to modify the order of suspension granted, as the conditions which have been imposed are conditions which are being imposed when bail is granted to an accused.

4. In such view of the matter, this Court is of the view that there is no necessity to pass any order directing modification of the conditions and upon the conditions imposed above being complied with by the petitioner, the sentence passed on the petitioner shall stand suspended and the petitioner shall be enlarged on bail.

29.11.2024

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Note to office: Issue order copy on 03.12.2024.

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Crl.R.C.No.1258 of 2024

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Admit. Notice.

**01.08.2024
(1/2)**

msv

IN THE HIGH COURT OF JUDICATURE AT MADRAS



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Crl.MP.No.11021 of 2024

DATED : 01.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.M.P.Nos.11021 and 11022 of 2024
in Crl.R.C.No.1258 of 2024**

Amsa Durai

... Petitioner

Vs.

1.K.Muniyandi

2.Kalaivani

3.Vasanth

4.Vetrivel

... Respondents

PRAYER : Criminal Miscellaneous Petition filed under Sections 397(1) r/w 439 of Criminal Procedure Code, to suspend the imprisonment imposed on the petitioner by the Appellate Court and the judgment dated 28.02.2023 made in C.A.No.80 of 2022 on the file of the Additional District and Sessions (Fast Track Court), Mettur confirming the judgment dated 05.09.2022 made in C.C.No.64 of 2019 on the file of Judicial Magistrate, Mettur and enlarge the petitioner on bail pending disposal of the criminal revision.

For Petitioner : Mr.V.Balamurugan

For Respondents : Mr.V.Elangovan

ORDER

This criminal miscellaneous petition has been filed to suspend the conviction and sentence imposed on the petitioner vide judgment dated 28.02.2023 passed in C.A.No.80 of 2022 by the learned Additional District and Sessions (Fast Track Court), Mettur confirming the judgment dated



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05.09.2022 passed in C.C.No.64 of 2019 by the learned Judicial Magistrate, Mettur and enlarge the petitioner on bail pending disposal of the criminal revision.

2. The petitioner was found guilty for the offence under Section 138 of Negotiable Instruments Act and the accused is convicted as per Section 255(2) of Cr.P.C. and sentenced to undergo simple imprisonment for the period of one year and to pay a compensation of Rs.7,00,000/- under Section 357(3) of Cr.P.C, in default of payment of the compensation, to undergo simple imprisonment of three months, vide judgment dated 05.09.2022 in C.C.No.64 of 2019, against which, appeal was filed in C.A.No.80 of 2022 before the learned Additional District and Sessions (Fast Track Court), Mettur and the same was dismissed on 28.02.2023. Aggrieved by the same, the revision petition has been filed along with the present petition to suspend the sentence.

3.The learned counsel for the revision petitioner submitted that, without prejudice to his rights, the petitioner is ready to deposit 50% of the compensation ordered by the trail court. He further submitted that, there are



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lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable and that apprehending arrest the present petition for suspension of sentence is filed and the petitioner is not in jail.

4. Having regard to the fact that there are arguable points involved in the revision and further, the revision is not likely to be taken up for final hearing in the near future, I am of the considered opinion that the revision petitioner is entitled for the relief of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to deposit 50% of the compensation awarded by the trial court within a period of two weeks from the date of receipt of a copy of this order to the credit of C.C.No.64 of 2019 on the file of learned Judicial Magistrate, Mettur, failing which, the suspension of substantive sentence of imprisonment alone granted today, shall stand automatically vacated, without any further reference to this Court and the petitioner is further directed to appear before the trial Court and execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial



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Magistrate, Mettur and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending revision.

6. Crl.M.P.No.11021 of 2024 is ordered accordingly. However, this Court is not inclined to exempt the petitioner from surrendering before the Court below. Hence, Crl.M.P.No.11022 of 2024 is dismissed.

01.08.2024
(2/2)

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
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Note: Issue order copy by 01.08.2024

To

1. The Additional District and Sessions (Fast Track Court), Mettur
2. The Judicial Magistrate, Mettur
3. The Public Prosecutor,

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Madras High Court,
Madras.



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in Crl.R.C.No.1258 of 2024**

**01.08.2024
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