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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.7744 of 2024

Rahim

... Petitioner

Vs.

Shanthi

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order dated 19.02.2024 passed in CrI.M.P.No.5307 of 2024 in C.A.No.130 of 2024 on the file of the Principal Sessions Court, Chennai.

For Petitioner : Mr.M.Vijaya Kumar

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in CrI.M.P.No.5307 of 2024 in C.A.No.130 of 2024, dated 19.02.2024 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 I, Egmore, Allikulam, Chennai, through judgment dated 05.01.2024 and was sentenced to undergo one year simple imprisonment and to pay double the cheque amount as fine within one month, in default, to undergo three 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.130 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.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 Principal Sessions Judge,



Chennai, on or before 04.04.2024 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 C.C.No.2129 of 2020;
- (c) the Principal Sessions Judge, 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
- (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.

28.03.2024

Note: Issue order copy by 01.04.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

ssr



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N.ANAND VENKATESH, J

SSR

To

- 1.The Principal Sessions Judge
Chennai.
- 2.The Public Prosecutor,
High Court, Chennai.

Crl.O.P.No.7744 of 2024

28.03.2024