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Crl.O.P.No.11254 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.05.2024

CORAM:

THE HONOURABLE Mr. JUSTICE K.KUMARESH BABU

Crl.O.P.No.11254 of 2024

M.Saravanan

... Petitioner

Vs.

P.Mangudi

...Respondent

Prayer: Criminal Original Petition filed 482 of the Criminal Procedure Code, 1973, to set aside the order dated 30.04.2024 passed in Crl.M.P.No.13254 of 2024 in C.A.No.351 of 2024 on the file of the learned Principal Sessions Judge, Chennai.

For Petitioner : Mr.D.Prabhu

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below in Crl.M.P.No.13254 of 2024 in C.A.No.351



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of 2024 dated 30.04.2024 dismissing the application filed by the petitioner seeking for suspension of sentence pending disposal of the appeal.

2. The petitioner was convicted for offence under Section 138 of the Negotiable Instruments Act by the learned Metropolitan Magistrate, FTC-III, Saidapet, Chennai, through the judgment dated 19.03.2024 and he was sentenced undergo three months simple imprisonment and to pay the cheque amount as compensation to the complainant, in default, to undergo simple imprisonment of one month. Aggrieved by the same, the petitioner filed an appeal in C.A.No.351 of 2024 on the file of the Principal Sessions Judge, Chennai.

3. Even though the petitioner had been granted time on 18.04.2024 to file an appeal seeking suspension of sentence passed by the trial Court, the petitioner filed appeal on 18.04.2024 along with suspension of sentence and the same had been returned for compliance of certain defects. Subsequently, the appeal has been represented only on 26.04.2024. Since warrant is pending against the accused, the accused has to surrender before



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the Court and file a petition for suspension of sentence and then only it will be considered by the Court. Therefore, the appellate Court dismissed the suspension of sentence application. Aggrieved by the same, the present petition has been filed before this Court.

4. The learned counsel for the petitioner has relied upon the order of this Court in Crl.O.P.No.7744 of 2024 dated 28.03.2024. A perusal of the said order, it is seen that the this Court had set aside the impugned order, wherein the lower Court had issued conviction of warrant. The above referred case squarely applies to the present case.

5. In view of the above, I am inclined to set aside the impugned order. 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 20.06.2024 and file a bail application before the concerned Court.



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(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.3038 of 2022:

(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.

08.05.2024

Index : Yes / No
Internet : Yes / No
dna



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To
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- 1.The Principal Sessions Judge, Chennai.
- 2.The Metropolitan Magistrate, FTC-III, Saidapet, Chennai.



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K.KUMARESH BABU, J.
dna

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