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*Crl.M.P.No.12334 of 2024
in Crl.R.C.No.1469 of 2024*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2024

CORAM:

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

Crl.M.P.No.12334 of 2024
in
Crl.R.C.No.1469 of 2024

Gunasekaran

... Petitioner/Accused

Vs.

Easwari

... Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition filed under Section 438(1) of Bharatiya Nagarik Suraksha Sanhita, to suspend the sentence of imprisonment imposed on the petitioner in the judgment dated 07.08.2024 made in C.A.No.143 of 2022 on the file of I Additional District and Sessions Court, Tiruppur confirming the judgment dated 17.09.2022 made in S.T.C.No.2916 of 2019 on the file of learned Judicial Magistrate (Fast Track Court), Tiruppur and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

For Petitioner : Mr.K.Muruganandham

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence of imprisonment imposed on the petitioner in the judgment dated 07.08.2024 made in C.A.No.143 of 2022 on the file of I Additional District and Sessions Court, Tiruppur confirming the judgment dated 17.09.2022 made in S.T.C.No.2916 of 2019 on the file of learned



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Judicial Magistrate (Fast Track Court), Tiruppur and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

2.The petitioner/accused in S.T.C.No.2916 of 2019 was convicted by the Trial Court by judgment dated 17.09.2022 for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.3,00,000/- as compensation. Aggrieved against the same, the petitioner preferred an appeal before the learned I Additional District and Sessions Judge, Tiruppur. The learned Sessions Judge, by judgment dated 07.08.2024, dismissed the appeal confirming the conviction and sentence of the trial Court, against which, the petitioner preferred a revision before this Court in Crl.R.C.No.1469 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.During trial, the respondent examined as PW1 and marked Exs.P1 to P4. On the side of the accused D.W.1 to D.W.3 examined and no documents marked. On conclusion of trial, the Trial Court on the evidence of witnesses and the materials produced, convicted the petitioner as stated above and the Appellate Court confirmed the same.



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4.The learned counsel for petitioner submitted that at the time of preferring an appeal, the petitioner deposited 20% of the cheque amount, i.e., Rs.60,000/- before the trial Court. Now the petitioner is ready to deposit 30% of the cheque amount, i.e., Rs.90,000/- within a period of two weeks. He further submitted that the petitioner arrested on the conviction warrant and now he is confined in Central Prison, Coimbatore from 07.08.2024.

5.Considering the submission made and on perusal of the materials and the specific undertaking given by the petitioner that he is ready to deposit 30% of the cheque amount, i.e., Rs.90,000/-, finding that the petitioner is confined in Central Prison, Coimbatore from 07.08.2024, the offence being a bailable offence and it is merely on technicality of dishonour of cheque, this Court is inclined to suspend the sentence imposed on the petitioner.

6.Accordingly, the substantial sentence of imprisonment imposed on the petitioner is suspended with the following conditions:

(i)The petitioner is directed to execute a personal bond before the Superintendent of Prison, Central Prison, Coimbatore and on execution of the same, the Superintendent of Prison, Central Prison, Coimbatore shall release the petitioner forthwith, if he is not required in any other case;



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(ii)After coming out of the prison, the petitioner shall deposit a sum of Rs.90,000/- (Rupees Ninety Thousand only) (30% of the cheque amount) to the credit of S.T.C.No.2916 of 2019 on the file of Judicial Magistrate, Fast Track Court, Tiruppur, on or before 25.09.2024;

(iii) Thereafter, the petitioner shall execute a bond for Rs.5,000/- with two sureties, each for a likesum to the satisfaction of the Judicial Magistrate, Fast Track Court, Tiruppur, within a period of 15 days from the date of release.

(iv)The petitioner / accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Book to ensure their identities.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.

8.Post the matter on 26.09.2024 'For Reporting Compliance'.

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Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral citation : Yes/No

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Note: Issue order copy on 05.09.2024.



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To

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- 1.The I Additional District and Sessions Judge,
Tiruppur.
- 2.The Judicial Magistrate,
Fast Track Court, Tiruppur.
- 3.The Superintendent,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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