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*Crl.M.P.No.15619 of 2024
in Crl.R.C.No.1913 of 2024*

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SUNDER MOHAN, J.

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed on the revision petitioner/accused in C.A.No.165 of 2018 on the file of the learned II Additional District & Sessions Judge, Thiruvallur, Poonamallee, confirming the order passed in C.C.No.356 of 2017 dated 31.08.2018 by the learned Judicial Magistrate, Fast Track Court, (Magisterial Level), Ambattur and enlarge the petitioner on bail, pending disposal of the above revision.

2. The case of the respondent is that towards the discharge of his liability, the petitioner had issued two cheques, one for Rs.10 lakhs and another for Rs.5 lakhs and when the said cheques were presented for collection, the cheques were returned with endorsement 'signature differs' and 'funds insufficient' respectively; that in spite of statutory notice, the petitioner had not made the payment.

3. The petitioner was convicted by the trial Court for the offence under



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Section 138 of the Negotiable Instruments Act and sentenced to undergo 8 months simple imprisonment with fine of cheque amount, as compensation to the complainant within one month, in default to undergo simple imprisonment for two months. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court. Therefore, challenging the concurrent finding of the courts below, the petitioner has preferred revision and pending revision, he seek for suspension of sentence.

4. The learned counsel for petitioner would submit that the respondent had not established that the cheques were issued in discharge of legally enforceable debt and that the Courts below had not considered the said fact and the fact that the petitioner had rebutted the statutory presumption and that he had already deposited 20% of the cheque amount and willing to deposit further 20% of the amount and prayed for granting suspension of sentence to the petitioner.

5. Heard the learned counsel for the petitioner and perused the records.

6. Considering the above, this court finds force in the submission made by the learned counsel for the petitioner and since there are arguable points in



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the revision, this Court is inclined to admit the revision and grant suspension of sentence, on the following conditions till the disposal of the above Criminal Revision :

(i) The petitioner is ordered to be enlarged on bail, on condition that the petitioner shall deposit a sum of Rs.3,00,000/- to the credit of C.C.No.356 of 2017 on the file of the Judicial Magistrate, Fast Track Court, (Magisterial Level), Ambattur, within a period of four weeks from the date of receipt of a copy of this order.

(ii) On such deposit being made, the trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case.

(iii) Thereafter, the sentence of imprisonment alone imposed on the petitioner/accused shall be suspended, on his executing a bond a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the trial court.

(iv) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their



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Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(v) The petitioner shall appear before the Trial Court on the first working day of a month at 10.30 a.m., until the disposal of the revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

(vi) On the failure of the petitioner/accused, depositing the above said amount, it is open to the trial Court to commit the petitioner/accused into custody for undergoing the sentence.

7. Accordingly, these Criminal Miscellaneous Petition is ordered.

14.11.2024
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Note: Issue order copy on 15 .11.2024

To

1.The II Additional District & Sessions Judge, Thiruvallur,
Poonamallee

2.The Judicial Magistrate, Fast Track Court,



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(Magisterial Level), Ambattur

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3.The Public Prosecutor,
High Court, Madras.

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