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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.07.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.M.P.No.952 of 2024
in Crl.RC.No.114 of 2024

V.P.Venkatachalam

...Petitioner

Vs.

V.M.Periyasamy

...Respondent

Criminal Miscellaneous Petition filed under Section 397(1) of Criminal Procedure Code praying to suspend the sentence imposed on the petitioner by the judgment dated 04.10.2023 passed in CA.No.44/2001 on the file of the Ist Additional District and Sessions Court, Erode confirming the judgment dated 07.03.2001 passed in CC.No.390/1997 on the file of the learned Judicial Magistrate-II, Erode and enlarge the petitioner on bail.

For Petitioner : Mr.J.Titus Enock

For Respondent : Mr.V.S.Kesavan

ORDER

The petitioner has filed the Criminal Miscellaneous petition to suspend the sentence imposed on the petitioner by the judgment dated 04.10.2023 passed in CA.No.44/2001 on the file of the Ist Additional District and Sessions Court, Erode confirming the judgment dated



07.03.2001 passed in CC.No.390/1997 on the file of the learned Judicial Magistrate-II, Erode.

2. The revision petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo three months simple imprisonment and to pay a fine of Rs.5,000/- as compensation, in default, to undergo SI for one month. Aggrieved by the same, the present revision has been filed along with the petition seeking suspension of sentence.

3. The learned counsel for the petitioner submit that there are lot of material contradictions in the evidence of the respondent and the same is highly unbelievable. It is further submitted that apprehending arrest, the present petition for suspension of sentence is filed and the petitioner is not in jail. However, the petitioner is ready to pay 50% of the cheque amount in the credit of the case before the lower Court.

4. Having regard to the fact that there are arguable points involved



in the revision and further, the petitioner has come forward to pay 50% of the fine amount, I am of the considered opinion that the revision petitioner is entitled for the relief of suspension of sentence.

5. The sentence imposed by the Court below dated 04.10.2023 made in C.A.No.44/2001 on the file of the learned I Additional District and Sessions Judge, Erode is suspended, subject to the following conditions :-

"(a) The petitioner is directed to deposit 50% of the cheque amount in CC.No.390/1997 on the file of the learned Judicial Magistrate-II, Erode within a period of two weeks from the date of receipt of copy of this order.

(b) The petitioner shall execute a bail 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 learned Judicial Magistrate-II, Erode. This bail bond shall be entertained only after the deposit of the



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money specified in clause (a).

(c) *The petitioner shall appear before the learned learned Judicial Magistrate-II, Erode on the first working day of the every English Calendar Month at 10.30 am, until further orders; and*

(d) *If the petitioner fails to deposit the amount and execute the bail bond as stipulated in Clause (a) and (b), the order of interim suspension of sentence shall stand cancelled automatically without reference to this Court and the learned Magistrate, shall immediately issue non-bailable warrant and secure the petitioner to serve the sentence imposed against the petitioner."*

6. This petition is ordered accordingly.

03.07.2024
(2/2)

Note: Issue order copy on 04.07.2024

Index : Yes/No
Speaking Order : Yes/No

4/6



: Yes/No

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1. The *learned Judicial* Magistrate-II, Erode.
2. The IV Addl. District and Sessions Judge, Erode.
3. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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M.DHANDAPANI, J.

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