



Crl.M.P.Nos.16242 & 16243 of 2024 in Crl.R.C.No.1996 of 2024

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SUNDER MOHAN, J.

These Criminal Miscellaneous Petitions have been filed by the petitioner, seeking to suspend the sentence imposed on the petitioner/accused in Crl.A.No.326 of 2022 dated 09.08.2024 by the learned VI Additional Sessions Judge at Chennai confirming the judgment dated 06.10.2022 in C.C.No.6794 of 2018 passed by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore @ Allikulam, Chennai and enlarge the petitioner on bail pending disposal of the above revision and to exempt the petitioner from surrendering before the Trial court, pending disposal of the above revision.

2.It is the case of the respondent/complainant that the petitioner obtained hand loan of Rs.9,00,000/- and had issued two cheques each Rs.5,00,000/- towards discharge of the said loan; that when the cheques were presented for collection, the same were dishonoured for the reason “Funds Insufficient” and that in spite of statutory notice issued by the respondent,



the petitioner failed to make the payment.

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3.The petitioner was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo Two Years simple imprisonment and to pay compensation of double the cheque amount as contemplated under Section 357(3) of Cr.P.C. and in default to undergo six months simple imprisonment. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4.The learned counsel for the petitioner would submit that there is no evidence to show that the respondent had a capacity to lend such a huge amount of Rs.9,00,000/- to the petitioner; and that in order to show his bonafide, the petitioner is willing to pay Rs.5,00,000/- before the Trial Court.

5.Considering the above submissions made by the learned counsel for the petitioner and in view of the fact that the petitioner is willing to deposit Rs.5,00,000/-, this Court grants the relief of suspension of sentence and exemption from surrendering before the Trial Court on the following



conditions till the disposal of the criminal revision case.

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(i)The petitioner/accused is directed to deposit Rs.5,00,000/- [Rupees Five Lakh only] to the credit of C.C.No.6794 of 2018 before the Trial Court, 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 learned Metropolitan Magistrate, Fast Track Court-I, Egmore @ Allikulam, Chennai;

(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 Aadhar card or Bank pass Book and mobile numbers to ensure



their identity;

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(v)The petitioner shall appear before the trial Court on the first working day of every 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 any 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; and

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

6.In the result, the criminal miscellaneous petitions are ordered.



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