



Crl.M.P.No.17906 of 2024
in Crl.R.C.No.2313 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17906 of 2024

in

Crl.R.C.No.2313 of 2024

Ganesh Shankar ... Petitioner /Accused

Vs.

Ganesan ... Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita praying to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.I at Salem in S.T.C.No.132 of 2016 dated 30.09.2019 and upheld by the I Additional District Court at Salem in C.A.No.216 of 2019 dated 24.09.2021 and release the petitioner on bail until disposal of the above Criminal Revision.

For Petitioner : Mr.Thangavadhana Balakrishnan

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in S.T.C.No.132 of 2016 by judgment



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dated 30.09.2019 on the file of learned Judicial Magistrate No.I, Salem and upheld by the learned I Additional District Judge, Salem in C.A.No.216 of 2019 dated 24.09.2021 and release the petitioner on bail, pending disposal of the above Criminal Revision.

2. The case of the respondent is that towards discharge of his liability the petitioner had issued a cheque for a sum of Rs.50,000/- and that when the cheque was presented for collection, it was returned for the reason “funds insufficient” and that inspite of statutory notice, the petitioner did not make any payment.

3. The petitioner/accused in S.T.C.No.132 of 2016 was convicted by the Trial Court by judgment dated 30.09.2019 for the offences under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months imprisonment and directed him to pay fine of Rs.2,500/-. Aggrieved by the same, the petitioner/accused preferred an appeal in Crl.A.No.216 of 2019 before the learned I Additional District Judge, Salem. The learned District Judge, by judgment dated 24.09.2021, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, he filed



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Crl.R.C.No.2313 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the petitioner was arrested pursuant to the judgment of the trial Court on 03.10.2024 and is in custody for the past more than two months; that the petitioner has raised substantial grounds in the above revision, which requires consideration and to show his bonafides, the petitioner is willing to deposit a sum of Rs.20,000/- to the credit of S.T.C.No.132 of 2016 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 fact that the petitioner has raised substantial grounds, which requires consideration; that the petitioner is in custody from 03.10.2024 and the submission made by the petitioner that he is willing to deposit Rs.20,000/-, this Court is inclined to grant suspension of sentence to the petitioner, on the following conditions, till the disposal of the above Criminal Revision :



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(i) The petitioner is ordered to be enlarged on bail, on condition that the petitioner shall deposit a sum of Rs.20,000/- (Rupees Twenty Thousand only) to the credit of S.T.C.No.132 of 2016 on the file of the Judicial Magistrate No.I, Salem, 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 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 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 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, this Criminal Miscellaneous Petition is ordered.

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Issue order copy by 16.12.2024
Upload the order copy forthwith.



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SUNDER MOHAN, J.

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To

- 1.The Judicial Magistrate No.I,
Salem.
- 2.The I Additional District Judge,
Salem.
3. The Superintendent,
Central Prison,
Salem.
- 4.The Public Prosecutor,
High Court, Madras.

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