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*Crl.M.P.Nos.16588 & 16590 of 2024
in Crl.R.C.No.2066 of 2024*

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in

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SUNDER MOHAN, J.

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the revision petitioner / accused by the learned Principal District and Sessions Judge, Tirupathur in C.A.No.76 of 2022, dated 21.08.2024 confirming the judgment passed by the learned Judicial Magistrate No.I, Tirupathur in S.T.C.No.583 of 2019 dated 21.04.2022 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.The case of the respondent is that the petitioner issued a cheque for Rs.5,90,000/- towards the liability to the respondent and that when the cheque was presented for collection it was returned for the reason “funds insufficient” and that inspite of statutory notice, petitioner did not make any



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payment. The Courts below had convicted the petitioner for offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of one year and directed him to pay compensation of Rs.6,00,000/-.

3.Learned counsel for the petitioner would submit that the petitioner had rebutted the statutory presumption and had established before the trial Court that the respondent did not have the source to lend such a huge sum and the respondent misused the said cheque and that to show his bonafides, the petitioner is willing to deposit 50% of the cheque amount and prayed for granting suspension of sentence to the petitioner.

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

5. Considering the submissions made by the learned counsel for the petitioner and that there are arguable points in the above revision, which



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requires consideration and the submission made by the petitioner that he is willing to deposit 50% of the cheque amount, this Court is inclined to grant suspension of sentence and exempt the petitioner from surrendering before the trial court, 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 50% of the cheque amount, i.e. Rs.2,95,000/- (Rupees Two Lakhs Ninety Five Thousand only) to the credit of S.T.C.No.583 of 2019 on the file of the Judicial Magistrate No.I, Tirupathur 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.



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(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;

(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.



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(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.

6. Accordingly, these Criminal Miscellaneous Petitions are ordered.

29.11.2024
(2/2)

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To

1.The Principal District and Sessions Judge,
Tirupathur.

2.The Judicial Magistrate No.I,
Tirupathur.

3.The Public Prosecutor,
High Court, Madras.



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