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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-11-2026

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THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL MP No. 19734 of 2026
IN
CRL RC NO. 2381 OF 2026

H.Yovan
S/o J. Haris,
5/1283A, Gandhi Nagar-II,
Dharapuram Road,
Udumalpet.

..Petitioner(s)

Vs

P.Sekar
S/o Palanisamy,
No.21, 4th Floor,
Rhytham Apartment,
Attappampalayam,
Mel Thindal,
Erode.

..Respondent(s)

Prayer: To Suspend the sentence imposed in the judgment dated 24-7-2026 in Crl A No. 167 of 2024 on the file of the Learned II Additional District and Sessions Judge, Erode, confirming the judgment dated 29-4-2024 in STC No. 168 of 2022 on the file of the Learned Fast Track Court II at Magisterial Level, Erode and thus render justice.

For Petitioner(s): Mr.R. Reshma

For Respondent(s): Mr.T.Balachandran

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ORDER

This Criminal Miscellaneous Petition has been filed by the Revision Petitioner, praying to suspend the sentence imposed on him in Criminal Appeal No.167 of 2024 dated 24.07.2026 by the learned II Additional District and Sessions Judge, Erode, confirming the judgment of conviction, sentence and compensation dated 29.04.2024 made in S.T.C.No.168 of 2022 by the learned Fast Track Court II at Magisterial Level, Erode, pending disposal of the instant Criminal Revision Petition.

2.By the impugned judgment of conviction, sentence and order of the Trial Court, which was subsequently confirmed by the Lower Appellate Court, the Revision Petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act. The petitioner was sentenced to undergo three months simple imprisonment and directed to pay compensation of Rs.6,00,000/- under Section 357(3) Cr.P.C., in default of payment of compensation, to undergo simple imprisonment for one month. It is submitted that the petitioner is presently out of jail.

3.Challenging the above said judgment of conviction, sentence and order, the Revision Petitioner has filed the above Criminal Revision Petition along with the instant Criminal Miscellaneous Petition, seeking suspension of sentence and bail pending disposal of the Criminal Revision.

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Learned counsel for the petitioner submits that, in compliance with the order passed by this Court dated 14.10.2026, the petitioner has deposited the additional 30% of the cheque amount, namely Rs.1,80,000/-, before the learned Trial Court on 03.11.2026. It is further submitted that the petitioner had already deposited 20% of the cheque amount earlier and, thus, a total sum equivalent to 50% of the cheque amount of Rs.6,00,000/- has been deposited before the learned Trial Court. In this regard, the learned counsel has produced the deposit receipt dated 03.11.2026 before this Court, which is taken on record. He further submits that since the earlier order of this Court has been duly complied with, the petitioner's application for suspension of sentence may be favourably considered by this Court.

4.This Court heard Ms. R. Reshma, learned counsel for the Revision Petitioner and Mr. T.Balachandran, learned counsel for the Respondent, and considered their submissions and also perused the materials placed before this Court.

5.The brief facts leading to the filing of the present revision petition are that the respondent/complainant initiated proceedings against the petitioner under Section 138 of the Negotiable Instruments Act, alleging that the petitioner had borrowed a sum of Rs.6,00,000/- from him on 22.08.2021 for his urgent

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family requirements and, towards repayment of the said amount, issued a cheque dated 15.11.2021 for Rs.6,00,000/-. According to the complainant, the said cheque was returned unpaid on 17.11.2021 with the endorsement "Insufficient Funds". Thereafter, a statutory legal notice dated 20.11.2021 was issued to the petitioner, which was received by him on 22.11.2021. Since the petitioner failed to make payment despite receipt of the statutory notice, proceedings under Section 138 of the Negotiable Instruments Act were initiated. After considering the oral and documentary evidence adduced by both parties, the learned Trial Court convicted the petitioner, and the said conviction was subsequently confirmed by the learned Appellate Court.

6.Before this Court, the learned counsel for the Revision Petitioner contended that the learned Appellate Court failed to properly appreciate the defence evidence adduced on behalf of the petitioner, particularly the evidence of D.W.1 Murali and D.W.2 Viswanathan and the documentary evidence marked as Ex.D1. It was submitted that the petitioner had consistently denied the alleged loan transaction with the complainant and specifically disputed the existence of a legally enforceable debt. The learned counsel further contended that the petitioner did not know the complainant and that the cheque in question had been issued in connection with an entirely different borrowing transaction through intermediaries. It was further submitted that the petitioner had undergone treatment for COVID-19 at PSG Hospital between 11.08.2021 and

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16.08.2021 and was thereafter under home quarantine, which circumstance was not properly appreciated by the Courts below. The learned counsel also contended that the statutory presumptions under Sections 118 and 139 of the Negotiable Instruments Act are rebuttable in nature and that the defence evidence and surrounding circumstances were not properly considered by the Courts below. Therefore, it was argued that the conviction confirmed by the Appellate Court warrants interference.

7.It is further argued that due to the pendency of the criminal cases before this High Court, there is little likelihood that this Criminal Revision Case will be finally heard and decided in the near future. It is further submitted that there are arguable points in this Criminal Revision Case and the Revision Petitioner has a fair chance of success in the Criminal Revision Case. Thus, the learned counsel for the Revision Petitioner has prayed for suspension of sentence and bail till the disposal of this Criminal Revision Petition. It has been assured on behalf of the Revision Petitioner that he is fully ready to cooperate with the process of law, shall faithfully make himself available before the Court whenever required and is willing to accept any reasonable conditions that this Court may deem fit to impose. The Revision Petitioner further gives an explicit undertaking that he will not misuse his liberty and will cooperate in the swift disposal of the main Revision.

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8.The learned counsel for the Respondent has opposed the arguments advanced by the learned counsel for the Revision Petitioner and submits that the judgments passed by the Courts below are in accordance with law, after considering the entire evidence, and thus, the relief sought by the Revision Petitioner, at this stage, may be refused by this Court.

9.Considering the arguments advanced by the learned counsel for the Revision Petitioner, this Court is of the view that the defence evidence and the circumstances surrounding the alleged loan transaction require consideration at the time of final hearing. While the initial statutory presumption under the Negotiable Instruments Act applies, the accused is legally entitled to discharge his burden of proof on the basis of the materials already on record. The specific defence that the cheque was not issued to the complainant towards discharge of the alleged loan liability, coupled with the evidence of D.W.1 and D.W.2 and the circumstances relating to the petitioner's medical treatment and home quarantine, raises arguable issues which require consideration in the main Criminal Revision Petition.

10.Further, it is observed that when an accused is under the imminent threat of incarceration and when there are vital, arguable points raised in the Revision which prima facie favour the defence, the Courts should not shy away from granting suspension of sentence. The personal liberty of an individual

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would be irreversibly compromised if the revision eventually results in an acquittal at a later point in time after he has already undergone the sentence. In this regard, the principle laid down by the Hon'ble Supreme Court of India in the case of ***Rabi Prakash Vs. The State of Odisha, reported in 2023 Live Law (SC) 533***, is highly relevant and applicable.

11.The Revision Petitioner has raised substantial legal and factual grounds in the Revision, particularly concerning the appreciation of defence evidence, the rebuttal of statutory presumptions under the Negotiable Instruments Act and the existence of the alleged legally enforceable liability, all of which require a detailed appraisal during the final hearing. This Court also takes note of the fact that the petitioner has complied with the earlier order dated 14.10.2026 by depositing the additional 30% of the cheque amount on 03.11.2026, in addition to the 20% already deposited, thereby depositing a total of 50% of the cheque amount of Rs.6,00,000/-. The deposit receipt produced before this Court is taken on record. Furthermore, the main Revision is not likely to be taken up for final disposal in the near future. In such a view of the matter, this Court is of the firm opinion that the Revision Petitioner is entitled to the interim relief of suspension of sentence and bail.

12.Accordingly, pending disposal of the main Criminal Revision Case, the relief of suspension of sentence and bail is granted to the Revision Petitioner

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on the following conditions:-

i. The Revision Petitioner shall surrender before the Learned Judicial Magistrate, Fast Track Court II at Magisterial Level, Erode, within a period of three weeks from the date of receipt of a copy of this order. On such surrender, the Revision Petitioner shall be released on bail upon executing a personal bond for a sum of ₹15,000/- (Rupees Fifteen Thousand Only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court II at Magisterial Level, Erode, subject to furnishing a written undertaking that he will fully cooperate in the hearing of the main Revision Case.

ii. The Revision Petitioner and his respective sureties shall mandatorily affix their latest Photographs and Left Thumb Impressions (LTI) in the bail bonds, and the Court below may obtain a copy of their Aadhaar Cards or Bank Passbooks to formally establish and ensure their identity.

iii.The Revision Petitioner shall appear before the learned Judicial Magistrate, Fast Track Court II at Magisterial Level, Erode, once in every month, i.e., on the 3rd day of every calendar month commencing from the month of December 2026 at 10.30 a.m., until further orders of this Court.

iv. Upon formal acceptance of the bail bonds and sureties, the Trial Court shall immediately transmit legible photostat copies thereof to the Registry of this Court to be kept on the formal

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records of this Revision.

13.With the above directions, this Criminal Miscellaneous Petition stands ordered and **allowed**.

24-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1.The Fast Track Court II at Magisterial Level, Erode.

2.The II Additional District and Sessions Judge, Erode.

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