

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA
Present: Sri. K.K.Balakrishnan, Sessions Judge
Wednesday the 19th day of February, 2025

Crl. M.P. No.305/2025 in Crl. Appeal No.28/2025

Between:-

Sumesh.S, Aged 39 years, S/o Sujathan,
Planchirayil House, Puthanangadi, Varanam P.O,
Thanneermukkom, Cherthala, Alappuzha

} Petitioner/
Appellant

AND

1. Dr.Jefferson, Aged 38 years,
S/o Dr.P.Samuel George, Peediyakal House,
Opp.C.N.K Hospital, Industrial Nagar P.O,
Changanassery, Kottayam
2. The State of Kerala represented
by the Chief Secretary,
Government of Kerala
represented by Public
Prosecutor, Alappuzha

} Respondents

Petition filed by the Petitioner/Appellant under section 430 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) to suspend the execution of the sentence passed against him on 21.01.2025 in C.C.322/2022 on the file of the Court of Chief Judicial Magistrate, Alappuzha

Petition was presented on : 18.02.2025

This petition coming on 18.02.2025 for hearing before me in the presence of Sri.K.Chandra Babu, Advocate for petitioner; Public Prosecutor for the Respondent (State); the Court on 19.02.2025 passed the following:-

ORDER

This petition is filed under Section 430 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the petitioner, who is the appellant in the above matter, to suspend the execution of the sentence passed against him on 21.01.2025 in C.C.322/2022 on the file of the Court of

Chief Judicial Magistrate, Alappuzha.

2. The petitioner contended that the trial court found the appellant guilty of the offence punishable under Section 138 of Negotiable Instruments Act and by the judgment dated 21.01.2025 convicted him for offence under Section 138 of the NI Act and sentenced to undergo simple imprisonment for one year and to pay a compensation of ₹51,90,000/-. In default, to undergo simple imprisonment for three months. The compensation amount, if realised, shall be paid to the complainant u/s.357(3) of CrPC. The petitioner further submitted that the judgment of the trial court is against law and facts. The trial court failed to appreciate the evidence in its correct perspective. There are valid grounds to allow the appeal. Unless the order of the trial court is not suspended till the disposal of the appeal, the petitioner would be put to untold hardships and irreparable loss. In the affidavit, the petitioner further submitted that he belongs to middle class family and has no means to raise huge amount to comply the conditions stipulated u/s.148 (1) of NI Act. So, prayed to grant exemption from depositing part of the compensation in the trial court for admitting this appeal and suspending execution of sentence till the disposal of the appeal.

3. Heard the petitioner.

4. The learned counsel for the petitioner submitted that petitioner has no financial source to deposit any amount out of the compensation amount fixed by the trial court. Therefore, prayed to

suspend the execution of sentence without imposing condition to deposit part of the compensation amount in the trial court.

5. Considering the facts and circumstance revealed from the affidavit of the petitioner, I am of the opinion that execution of the sentence is to be stayed till the disposal of this appeal. The petitioner specifically pleaded that he has no means to raise any amount to comply the conditions specified in Section 148 (1) of NI Act for admitting the appeal and also for execution of sentence passed by the trial court. Hence I am of the view that exemption is to be granted to the petitioner from depositing part of the compensation amount in the trial court for execution of sentence passed against him. Therefore, the execution of sentence passed against the petitioner by the trial court is stayed till the disposal of the appeal and he shall be released on bail after executing bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional court.

In the result, petition is allowed.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 19th day of February, 2025.

Sd/-

**SESSIONS JUDGE
ALAPPUZHA**