

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA

Present: Sri. K.K.Balakrishnan, Sessions Judge

Monday the 3rd day of March, 2025

Crl. M.P. No.410/2025 in Crl. Appeal No.43/2025

Between:-

Santhosh Kumar, Aged 61 years, S/o
Karunakaran, Sastha Bhavanam,
Pazhaveedu P.O, Pallathuruthy, Alappuzha } Petitioner/
Appellant

AND

1. P.A.Thomas, S/o Ouseph, Poopallychira,
Ponga P.O, Alappuzha
 2. State of Kerala represented by Public
Prosecutor, Alappuzha
- } Respondents

Petition filed u/s.430 of Bharatiya Nagarik Suraksha Sanhita, 2023(BNSS) by the petitioner/appellant to pass an order to suspend the execution of sentence in C.C.No.109/2018 of the Judicial First Class Magistrate - II, Alappuzha.

Petition was presented on : 24.02.2025

This petition coming on 28.02.2025 for hearing before me in the presence of Sri.George Mathew, Advocate for petitioner; Public Prosecutor for the Respondent (State); the Court passed the following:-

ORDER

This petition is filed under Section 430 of Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the petitioner/appellant to suspend the execution of the sentence passed by the learned Judicial Magistrate of the First Class-II, Alappuzha in C.C.No.109/2019 dated 31.01.2025.

2. Short facts necessary for the disposal of the petition are as follows:- The petitioner herein is the accused in C.C.No.109/2019. The trial court passed the impugned order in the said case on 31.01.2025 and has sentenced the accused to undergo simple imprisonment for 6 months and to pay a fine of ₹10,000/- for the offence punishable u/s.420 of IPC. In default of payment of fine, the accused shall undergo simple imprisonment for two months. The fine amount, if realised, shall be paid as compensation to the complainant u/s.357 (1) of CrPC. Aggrieved by the order, the petitioner approached this court with the appeal. The order of conviction and sentence passed by the trial court is opposed to law and not sustainable either in law or on facts. The trial court miserably failed to appreciate the evidence adduced in this case in its correct and proper perspective. The evidence adduced by R1 is mutually inconsistent and contradictory and hence unsustainable. The trial court failed to appreciate the fact that the petitioner has specifically denied the alleged transaction of issuance of cheque and R1 did not adduce any evidence to prove the execution of the cheque in dispute. The petitioner submit that he has a fair chance of success in the appeal. Unless the execution of sentence passed by the trial court is suspended till the disposal of the appeal, the

petitioner would be put to untold hardships and irreparable loss. Hence, prayed to suspend the execution of the sentence passed by the trial court.

3. Against the petition, no objection was filed by the respondent.

4. Heard the learned counsel for the petitioner.

5. The learned counsel for the petitioner submitted that, if the sentence imposed is not suspended during the pendency of appeal, irreparable injuries will be caused to him and hence prayed to suspend the sentence passed against him till the disposal of the appeal. The learned counsel also submitted that the petitioner is ready to deposit ₹5,000/- out of the fine amount to suspend the execution of sentence, but prayed for leniency in imposing conditions. The learned counsel sought two weeks time to comply the conditions for depositing the amount. So, considering the facts and circumstance of the case, the petition is allowed, but on conditions. Stay granted for the execution of the sentence till the disposal of the appeal and bail is granted to the petitioner with following conditions:

- (i) The petitioner is directed to deposit ₹5,000/- out of the fine amount in the trial court on or before 18.03.2025.

- (ii) The petitioner shall be released on bail, on executing bond for ₹50,000/- (Rupees Fifty Thousand only) by himself and two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 3rd day of March, 2025.

Sd/-
SESSIONS JUDGE
ALAPPUZHA