

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA
Present: Sri. K.K.Balakrishnan, Sessions Judge
Tuesday the 11th day of November, 2025

Crl.M.P. No. 3340/2025 & Crl.M.P. No.3341/2025
in Crl.A No.217/2025

Between:-

Vinod Kumar T S, Aged 56 years, S/o Sivan,
Thoppil House, Kiliroor North P O, Kottayam
PIN - 686020

} Petitioner/Appellant

AND

1. Sunil Joseph, Vanichikkal House,
Thathampally P O,
Alappuzha - 13
2. State of Kerala represented by Public
Prosecutor, Alappuzha

} Respondents

Crl.M.P.No.3341/2025 is filed under Section 430 (1) 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 13.10.2025 in S.T.No.4911/2018 on the file of the Court of Judicial Magistrate of First Class-I, Alappuzha. Whereas, Criminal M.P.No.3340/2025 is filed by the petitioner in the above matter to exempt him from depositing 20% of the fine amount as required under Section 148 of NI Act.

Petitions were presented on : 10.11.2025

These petitions are coming on 11.11.2025 for hearing before me in the presence of Adv.Sri.Biji P Chandy, Counsel for petitioner; Public Prosecutor for the Respondent (State) ; the Court passed the following:-

COMMON ORDER

Crl.M.P.No.3341/2025 is filed under Section 430 (1) 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 13.10.2025 in S.T.No.4911/2018 on the file of the Court of Judicial Magistrate of First Class-I, Alappuzha. Whereas, Criminal M.P.No.3340/2025 is filed by the petitioner in the above matter to exempt him from depositing 20% of the fine amount as required under Section 148 of NI Act.

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 above stated judgment convicted him u/s.255 (2) of CrPC for the said offence and sentenced to undergo simple imprisonment for a period of three months and to pay a fine of ₹2,13,000/- and in default, to undergo simple imprisonment for a further period of three months. The fine amount, if realised, shall be given as compensation to R1 u/s.357(1)(b) of CrPC. The petitioner further submitted that the findings of the trial court is against law, facts and equities of the case. The trial court ought to have found that Ext.P1 cheque dated 01.09.2018 presented as premature on 31.08.2018 and as such it is not contemplated under Section 138 (b) of NI Act. The trial court ought to have found that Ext.P3 legal notice is not sent to the correct address of the petitioner. 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 filed along with CrI.M.P.No.3340/2025, the petitioner further submitted that he has no job or income and mainly depends on his wife for his livelihood. Now he is not in a position to raise 20% of the fine amount to comply the conditions stipulated u/s.148 (1) of the NI Act. So, prayed to grant exemption from that condition and suspend execution of sentence till the disposal of the appeal.

3. Heard the learned counsel for the petitioner.

4. The learned counsel for the petitioner submitted that 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. Moreover, the learned counsel submitted that the petitioner has no job or income and hence he could not raise 20% of the fine amount fixed by the trial court. Therefore, the learned counsel prayed to admit the appeal without imposing condition u/s.148 (1) of NI Act and also prayed to suspend the execution of sentence passed by the trial court.

5. I have perused the available records and considered the submission of the learned counsel for the petitioner. The reason stated by the petitioner in his affidavit for granting complete exemption from depositing 20% of fine amount is that he has no job or income to raise such a huge amount and mainly depends on his wife for his livelihood. So, I am of the view that the reason stated by the petitioner is sufficient to grant exemption from the condition stipulated in S.148 (1) of NI Act. In the above facts and circumstance, I am of the view that this is a fit case to grant exemption from the condition stipulated in S.148 (1) of NI Act. Therefore, appeal is admitted and the execution of sentence passed against the petitioner by the trial court is stayed till the disposal of the appeal. The petitioner 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, the petitions are allowed accordingly.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 11th day of November, 2025.

**Sd/-
SESSIONS JUDGE
ALAPPUZHA**