

**IN THE COURT OF THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, ERODE**

Present : Thiru. B. Murugesan, B.A., B.L.,
Principal Sessions Judge, Erode

Thursday, the 6th day of February, 2025

MP No.1/2025
in
CA No.23/2025

K.S.Mageshkumar (52),
S/o Sundram,
D.No.3/11, Syed Jaffer Street,
Salem – 636 009.

... Petitioner/Appellant/Accused
Vs

Mohammed Afzal (32),
S/o Mohammed Yusef,
D.No.463, Anaikattu Road,
Surampatti Valasu,
Erode – 638 009.

...Respondent/Respondent/Complainant

This petition filed on 20.01.2025 for suspension of sentence u/s 430(1) BNSS coming on this day for hearing before me in the presence of Tmt.P.Indurani, Advocate for the petitioner/appellant/accused and upon hearing the arguments on the side of the petitioner/appellant/accused, this court made the following

ORDER

Heard the learned counsel for the petitioner.

Claiming an order suspending the execution of sentence of imprisonment passed in the judgment dated 13.12.2024 against the petitioner/appellant/accused in STC No.78/2024 wherein the trial court has found the petitioner/appellant/accused guilty of the offence punishable under S.138 of Negotiable Instruments Act, 1881, sentenced him to undergo simple imprisonment for three months and ordered him to pay a sum of Rs.3,00,000/- towards compensation to the respondent/complainant under S.357(3) CrPC within a period of three months from the date of judgment, in default, to undergo simple

imprisonment for one month, the petitioner/appellant/ accused has filed this application under S.430(1) BNSS.

Aggrieved by such conviction and sentence, the petitioner/appellant/accused has filed the criminal appeal in CA No.23/2025 on the file of this court.

Pending the criminal appeal, the petitioner/appellant/accused seeks suspension of sentence on the ground that he has a fair chance of success in the criminal appeal.

The petitioner/appellant/accused has failed to appear before the trial court on the date of judgment, that therefore, NBW has been issued against him and the same is pending for execution.

Learned counsel for the petitioner/appellant/accused has raised certain relevant issues and arguable points which have to be dealt with only at the time of final hearing.

The petitioner/appellant/accused, in his petition, consents to deposit 20% of the cheque amount before the trial court.

Considering the criminal appeal having been filed by the petitioner/appellant/accused challenging the conviction and sentence of the trial court, this court is inclined to suspend the sentence imposed on the petitioner/appellant/accused by the trial court in STC No.78/2024.

In the result,

(a) the execution of sentence of imprisonment in STC No.78/2024 dated 13.12.2024 on the file of Judicial Magistrate, Fast Track Court No.I, Erode, is suspended till the appeal is disposed of, with the following conditions,

(i) that 20% of the cheque amount (less if any of the amount paid under S.143A of NI Act) is ordered to be deposited before the trial court by the petitioner/appellant/accused in terms of S.148 of Negotiable Instruments Act, 1881, within a period of 60 days from the date of this order, failing which this order of suspension of execution of sentence of the said imprisonment shall stand vacated automatically, and

(ii) that the petitioner/appellant/accused, within 15 days from the date of such deposit of 20% of the cheque amount, has to execute a bond for a sum of Rs.10,000/- with two sureties for the like sum each to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.I, Erode, and

(b) the learned Judicial Magistrate, Fast Track Court No.I, Erode, shall follow the procedures laid down under S.148 of NI Act in respect of the amount so deposited.

Pronounced by me in open court, this 6th day of February, 2025.

Principal Sessions Judge
Erode

Copy to

1. Judicial Magistrate, Fast Track Court No.I, Erode
2. Tmt.P.Indurani, Advocate, Erode