

IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE AT TIRUVALLUR

Present: Dr. J. JULIET PUSHPA, Ph.D. (Law)

Principal District and Sessions Judge, Tiruvallur

Tuesday, the 21st day of July 2026

M.P.No: 1/ 2026 in CrI. Appeal No. 231/ 2026

(CNR No. TNTR010053862026)

Gokulnath S/o Manohar

...Petitioner/Accused

//Versus//

K.Satheesh Kumar Rep by its Assistant
Business Manager of M/s. Sree Gokulam
Chit. & Fin. Co.Pvt., Ltd.,

...Respondent/Complainant

Petition dt: 29.06.2026 U/s. 430(1) of BNSS r/w 483 of BNSS praying for suspension of sentence pending Criminal Appeal

This petition coming on this day for hearing before me having the petition filed by the petitioner Counsel M/s V.S. Jayachitra and upon hearing the arguments of the petitioner/appellant and upon perusing the records and material and hearing both sides, this court made the following:-

ORDER

Heard arguments of the learned counsel for the petitioner. Petition filed u/s 430 of BNSS praying to suspend the sentence imposed by the Judicial Magistrate, Fast Track Court at Magisterial level, Ambattur in STC No.222/2022 dated 05.06.2026 till the disposal of the appeal.

The learned counsel for the petitioner has submitted that the alleged cheque was issued only as security, which was not returned and now the respondent filed the security cheques in present case and the cheque amount is not the actual due he is liable to pay any amount to the complainant. The petitioner has already settled the due amount by way of repayment of Rs.15,15,250/- by way of transaction and the balance amount was realized through Arbitration proceedings by way of attachment through District Court, Chennai. The trial court has not properly appreciated the repayment and settlement of entire due but convicted the petitioner. Since the Cheque amount has been already fully paid and the trial court already suspended the sentence, there is no delay in filing the appeal, prayed to suspend the sentence till disposal of appeal without imposing the condition for depositing the 20% of total compensation as per the dictum of the Hon'ble Apex Court in **2023 (1) SCC 446 (Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited and Others)**.

A perusal of records shows that Trial Court found the petitioner/accused company guilty u/s 138 of negotiable Instrument Act convicted u/s 255(2) Cr.P.C. and sentenced him to undergo 18 months simple imprisonment and directed accused to pay Rs.40,00,000/- within 30 days as compensation u/s 357(3) Cr.P.C in default to undergo further one month simple imprisonment.

As against the conviction and sentence of imprisonment of trial Court, the accused preferred the present appeal which is now taken on file as CA.231/2026. The trial court suspended the sentence for 30 days as per the orders in in CMP No.532/2026 dt. 05.06.2026. Admittedly, there is no delay in filing the appeal. Hence, this Court is inclined to suspend the sentence till the disposal of the appeal and enlarge the petitioner on bail.

As per the principles laid down in the above judgment of the Hon'ble Apex Court, the deposit of 20% of compensation amount is not an absolute rule and it can be reduced or even exempted in exceptional cases by assigning reasons. As per the principles laid down in the above said judgment, the Hon'ble Apex Court has held that if the Court finds any exceptional reason for non-imposing a condition of depositing 20% of the compensation amount, then the Court can suspend the sentence without imposing such condition of deposit. So, the Court shall consider non-imposing the condition for depositing 20% of compensation amount in respect of exceptional circumstances.

As per the contention of the learned counsel for the petitioner, he has already paid the entire due by way of repayment for which he has produced two documents. He has produced the Ledger Extract of the petitioner with the respondent in respect of Ticket No. G2M/0489/KDM/15 which shows that the total repayment from 29.03.2019 to 29.10.2021 is Rs.12,67,750/- and by way of dividend, the credit is Rs.2,47,500/-. Thus, an amount of Rs.15,15,250/- is claimed to be repaid. Further, the petitioner states that for the balance amount towards the compensation amount Rs.40,00,000/-, the petitioner has settled the same in the proceedings of the Arbitrator for Central Chennai, Chit Fund Cases Court, Chennai in Case No.214/2025 with regard to the Ticket G2M0477, wherein the property of the petitioner pledged has been utilized for realization of the due, for which the copy of the Notice received in respect of Arbitration proceedings is produced. On perusal of the above said documents, it is seen that the petitioner has repaid Rs.15,15,250/- and the arbitration settlement is in due. Even though the particulars in settlement and conclusion in the Arbitration proceedings and orders concerning the same is not produced, copy of the above said ledger shows the repayment of Rs.15,15,250/-.

Thus, as argued by the learned counsel for the petitioner, the ledger accounts shows that the petitioner has paid Rs. 15,15,250/- which is above 20% of the compensation amount. Thus, the petitioner has made out prima facie case that substantial part of compensation is already paid by the petitioner. So, considering the above aspect that the petitioner has already paid the substantial part of amount towards the compensation amount imposed by the trial Court, the petitioner made a case for exceptional circumstances for not imposing any condition while suspending the sentence as per the dictum laid down by the Hon'ble Supreme Court of India in the case *Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited and others*, reported in (2023) 10 Supreme Court Cases 446, which reads as follows :

“7. Therefore, when the appellate court considers the prayer under Section 389 Cr.P.C. of an accused who has been convicted for offence under Section 138 NI Act, it is always open for the appellate court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the appellate court comes to the conclusion that it is an exceptional case, the reasons for coming to the said conclusion must be recorded.”

Accordingly, this Court finds that the petitioner has made out a case for exemption from the deposit of 20% statutory deposit as contemplated u/s 148 of the Negotiable Instruments Act.

Considering the above said aspects, this Court is inclined to suspend the sentence of imprisonment imposed by the Judicial Magistrate, Fast Track Court at Magisterial Level, Ambattur in STC No.222/2022 dated 05.06.2026 alone till the disposal of the Criminal Appeal No.231/2026. The petitioner/Appellant is directed to appear before the III Additional District and Sessions Judge, Poonamallee on 24.08.2026

Dictated to the Shorthand Writer and Pronounced by me in Open Court on this, 21st day of July 2026.

**Principal District and Sessions Judge,
Tiruvallur**

Copy to

The Petitioner's Advocate M/s V.S. Jayachitra
The III Additional District and Sessions Judge, Poonamallee
The Judicial Magistrate, Fast Track Court at Magisterial Level, Ambattur.