

Crl.A. No. 25188/2022

Matter advanced on board at the instance of counsel for Appellant. Application filed U/Or.389(1) of Cr.PC seeking suspension of the sentence. It is stated in the application that, the Trial Court has issued nonailable warrant against the Appellant and the Appellant was apprehended and remanded to JC on 14.09.2022, since this Court has not suspended the sentence earlier.

Heard the counsel for Appellant.

The Accused has been convicted for the offence punishable U/Sec.138 of NI Act and challenging the said Judgment the Appellant has preferred the above appeal belatedly. Since there was delay in filing the above appeal this Court has ordered Notice to the Respondent, pending consideration of the application.

However it is brought to the Notice of this Court that, the Accused has been remanded to the JC by the Trial Court.

The Trial Court has imposed only fine and in default to undergo imprisonment. The Hon'ble High Court of Karnataka in Crl.Petition No. 6033/2014 dt. 09.10.2014 in the case of Sri. M.C. Thippanna V/s N.Vijayakumar, observed that pending disposal of application U/S 5 of Limitation Act, the execution and operation of the Judgment of conviction can be suspended in Appeal.

In the instant case also the Appellant is entitled for the benefit of the said Judgment pending adjudication on the application for condonation of delay.

Therefore the Appellant has made out prima facie case to suspended the sentence passed by the Trial Court. Accordingly, I proceed to pass the following

ORDER

Acting U/S 389(1) of Cr.P.C. the execution and operation of the judgment passed in C.C.No. 58994/2018 dt. 19.02.2022 by the 34th Addl.C.M.M., Bangaluru, is hereby suspended for a period of 3 months, subject to the deposit of 20% of cheque amount before the Trial Court, within 8 weeks from today. In case of default on the part of the Appellant /Accused to deposit the said amount, this order stands cancelled, forthwith.

Further, the Appellant shall execute a personal bond for the sum of Rs. 1,00,000/-, with one surety for the likesum, before the Trial Court, within 4 weeks from today.

Call for TCR by 03.10.2022.

[P.G. Chaluva Murthy]

*LXXII Addl.City Civil & Sessions Judge,
(CCH-73) Bengaluru.*