

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.09.2020

PRONOUNCED ON: 11.09.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.M.P. No.4904 of 2020 in Crl.A. No.316 of 2020

M. Shiva

Petitioner

vs.

State represented by
the Inspector of Police
All Women Police Station
Krishnagiri
Krishnagiri District

Respondent

Criminal Miscellaneous Petition filed under Sections 389(1) Cr.P.C. seeking to suspend the sentence imposed on the petitioner on 11.02.2020 vide judgment and order in Spl. S.C. No.6 of 2017 on the file of the Sessions Court (Fast Track Mahila Court), Krishnagiri, Krishnagiri District and enlarge the petitioner on bail, pending the criminal appeal.

For petitioner Mr. M.P. Saravanan

For respondent Mrs. P. Kritika Kamal
Govt. Advocate (Crl. Side)

ORDER

This is a petition seeking suspension of sentence and bail.

2 Heard Mr. M.P. Saravanan, learned counsel for the petitioner and Mrs. P. Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent police.

3 The petitioner/A.1 was tried in Spl.S.C. No.6 of 2017 on the file of the Sessions Court (Fast Track Mahila Court), Krishnagiri, Krishnagiri District and convicted and sentenced vide judgment and order dated 11.02.2020 as follows:

Provision of law under which convicted	Sentence
Section 366 IPC	Five years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo six months rigorous imprisonment.

Provision of law under which convicted	Sentence
Section 5(1) read with Section 6 of the POCSO Act	Ten years rigorous imprisonment and fine of Rs.10,000/-, in default to undergo one year rigorous imprisonment.

The aforesaid sentences were ordered to run concurrently.

4 Challenging the aforesaid conviction and sentences, the first accused has preferred CrI.A. No.316 of 2010 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

5 It is the case of the prosecution that the victim girl "X", aged about 16 years, had eloped with the petitioner on 01.11.2016 and was secured by the police on 14.01.2017.

6 In the statement that was recorded by the Magistrate under Section 164 Cr.P.C., "X" had stated that she had gone on her own volition with the petitioner, as she was in love with him and that they had taken a house at Marudhappalli and were living there until she was secured by the police. However, in the evidence, she stated that she was forcibly taken away by the petitioner. In the trial, "X" has been confronted and contradicted with her previous statement given under Section 164 Cr.P.C. as required under Section 145 of the Evidence Act.

7 The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Moreover, the petitioner has been in incarceration from 11.02.2020. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Court (Fast Track Mahila Court), Krishnagiri;
- (ii) The sureties shall affix their photographs and left thumb impression in the surety bond and the Sessions Judge (Fast Track Mahila Court), Krishnagiri, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

This criminal miscellaneous petition stands ordered accordingly.

-sd/-

11/09/2020

This order, on being produced, be punctually observed and carried
into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE (FAST
TRACK MAHILA JUDGE) KRISHNAGIRI,
KRISHNAGIRI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KRISHNAGIRI, KRISHNAGIRI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S. M.P.SARAVANAN Advocate on payment of necessary
charges

Order

in

CRL MP.4904/2020

in

CRL A.316/2020

Date :11/09/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RVR 11/09/2020