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Crl.M.P.No.1157 of 2022 in Crl.A.No.87 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.1157 of 2022 in Crl.A.No.87 of 2022

Ramdoss

... Petitioner

-Versus-

State Rep. By
Inspector of Police,
All Women Police Station,
Virudachalam, Cuddalore District.
[Crime No.26 of 2016]

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389 (1) of the Code of Criminal Procedure praying to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Mahila Court, Cuddalore, in S.C.No.20 of 2019 by judgement dated 16.12.2021 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner : Mr.N.R.Rajagopalan

For Respondent / State : Mr.S.Vinoth Kumar, GA (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Mahila Court, Cuddalore, in S.C.No.20 of 2019 by judgement dated 16.12.2021 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. Heard both sides.

3. The petitioner was convicted by the trial court for offence under Sections 376(1) and 417 of IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.50,000/- for offence under Section 376(1) of IPC in default of payment of fine to suffer simple imprisonment for a further period of 2 years and to undergo rigorous imprisonment for 1 year and to pay a fine of Rs.10,000/- for offence under section 417 of IPC in default of payment of fine to suffer simple imprisonment for three months.

4. The learned counsel for the petitioner would submit that the allegations in this case are in the nature of love affair and the trial court erred in convicting the petitioner for the offence under Section 376 of IPC. The learned counsel would further submit that the petitioner is in prison from 16.12.2021 onwards.



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5. The learned Government Advocate (Criminal Side) would submit that it is a case where by giving false promise of marriage the accused had sexual intercourse with the victim and therefore, the trial court was right in convicting the petitioner for the offence under Sections 376 and 417 of IPC.

5. Apart from seeking suspension of sentence, the learned counsel for the petitioner also submitted that the petitioner is also not in a position to pay a fine of Rs.50000/- as imposed by the trial court and, therefore, prayed for the suspension of sentence of fine also.

6. Considering the nature of the allegations that there was a love affair and promising to marry the victim, the petitioner had sexual intercourse and also considering the fact that the petitioner is prison from 16.12.2021 onwards, this court is of the view that it is a fit case for the grant of suspension of not only the substantive sentence of imprisonment but also the sentence of fine on condition that the petitioner shall deposit a portion of fine of Rs.10,000/-.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions:-

(a) the petitioner is ordered to be released on bail on payment of a portion of fine amount of Rs.10,000/- (Rupees Ten Thousand only) and further on his



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executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only)

with two sureties each for a like sum to the satisfaction of the Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass books to ensure their identities;

(c) the petitioner shall appear before the Trial Court on the first working day of every English Calendar Month at 10.30 A.M until the disposal of the Criminal Revision and if he not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of 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 is ordered accordingly.

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Index : yes/no

Speaking order/Non-speaking order

kmk

To

1.The Sessions Judge, Mahila Court, Cuddalore, Cuddalore District.

2.The Inspector of Police, All Women PS, Vridhachalam, Cuddalore District.

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- 3.The Superintendent of Central Prison, Cuddalore.
- 4.The Public Prosecutor, High Court, Madras.

D.BHARATHA CHAKRAVARTHY. J.,

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