



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.762 of 2022

in Crl.A.No.58 of 2022

Rajesh

... Petitioner /
Accused

versus

The Inspector of Police,
All Women Police Station,
Ulundurpet,
Villupuram District.
(Crime No.6 of 2017)

... Respondent /
Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C., praying to suspend the sentence imposed on the petitioner passed by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram in S.C.No.24 of 2018 dated 15.12.2021 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

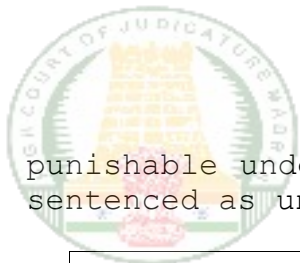
For Petitioner : Mr.K.Panjamurthy
for Mr.S.Sathiachandran

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been preferred by the petitioner/accused, seeking to suspend the sentence imposed upon him, by judgment and order dated 15.12.2021 passed in S.C.No.24 of 2018 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram and to enlarge him on bail, pending disposal of the appeal.

2. The petitioner, who is the accused in S.C.No.24 of 2018 on the file of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram. He was found guilty for the offence



punishable under Section 376 r/w 90 of IPC and has been convicted and sentenced as under:

Offence	Sentence
376 r/w 90 of IPC	Rigorous Imprisonment for 7 years along with fine of Rs.25,000/-, in default, to undergo Simple Imprisonment for 3 months

3. Challenging the above conviction and sentence, the petitioner/accused, has filed Crl.A.No.58 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4. Heard Mr.K.Panjamurthy, learned counsel for Mr.S.Sathiachandran, appearing for the petitioner/accused and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5. The case of the prosecution is that due to love affair, on 10.02.2017, the accused entered into the house of the de facto complainant and had physical relationship with her. Hence, the case.

6. According to the learned counsel for the petitioner/accused, there are arguable points available in the criminal appeal and the petitioner/accused has got a fair chance of succeeding in the appeal case and hence, the substantive sentence imposed against the petitioner/accused may be suspended before the trial Court.

7. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

8. Submissions made by the learned counsel appearing on either side are considered. Now, on going through the evidence given by the victim girl, it seems that previous to the lodging of complaint, she was having love affair with the petitioner. The evidence given by the victim girl in respect to the alleged occurrence needs a detailed appraisal. Further, the petitioner is in the judicial custody from 15.12.2021 and also as the appeal is not likely to be taken up in the near future, this Court is inclined to suspend the sentence for the petitioner/accused.

9. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioner on the following conditions:



(a) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Villupuram;

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(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

(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 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.

10. With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-
19/04/2022

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,
MAGALIR NEETHIMANDRAM, (FAST TRACK MAHILA
COURT), VILLUPURAM.

2 THE INSPECTOR OF POLICE
ALLWOMEN POLICE STATION, ULUNDURPET,
VILLUPURAM DISTRICT

3 THE OFFICER INCHARGE
SUB JAIL, ULUNDURPET.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.S.SATHIA CHANDRAN-MS/839/1 Advocate on payment of
necessary charges SR.NO.5771

Order
in
CRL MP.762/2022
in
CRL A.58/2022

Date :19/04/2022

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JPA 19/04/2022