



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.3133 of 2022

in

Crl.A.No.260 of 2022

Devendran

... Petitioner/Accused

Vs.

The State of Tamil Nadu,
rep by The Inspector of Police,
All Women Police Station,
Perambalur,
Perambalur District.
Crime No.5/2019

... Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed on the petitioner in S.C.No.80 of 2019 on the file of the Mahila Court, Perambalur on 13.12.2021 and enlarge him on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.P.Mani

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

O R D E R

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the learned Sessions Judge, Mahila Court, Perambalur by judgment dated 13.12.2021 in Spl.S.C.No.80 of 2019 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

2. The petitioner/appellant herein is the accused in Spl.S.C.No.80 of 2019 on the file of the Mahila Court, Perambalur. He was found guilty for the offences punishable under Sections 11(i) r/w. Section 12 and Section 11(iv) r/w. Section 12 of the Protection



of Children from Sexual Offences Act, 2012 and under Section 4 of the Tamil Nadu Prevention of Woman Harassment Act, 2002 and he has been convicted and sentenced as under:

S.No	Conviction	Sentence
1.	Sections 11(i) r/w Section 12 of the POCSO Act, 2012	3 years Rigorous Imprisonment and fine of Rs.3,000/- in default to undergo one month Simple Imprisonment.
2.	Section 11(iv) r/w. Section 12 of the Protection of Children from Sexual Offences Act, 2012	3 years Rigorous Imprisonment and fine of Rs.3,000/- in default to undergo one month Simple Imprisonment.
3.	Section 4 of the Tamil Nadu Prevention of Woman Harassment Act, 2002	3 years Rigorous Imprisonment and fine of Rs.10,000/- in default to undergo two months Simple Imprisonment.
The sentences are directed to run concurrently.		

3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.260 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The case of the prosecution is that the petitioner has committed sexual harassment by opening bank account in the name of the victim girl, and by presenting new dresses at the time of puberty function. Later, the petitioner compelled the victim girl to marry him and wrote letters to the victim girl. Subsequently, the petitioner falsely proclaimed in the school of the victim girl as well as in the village, as if, there exist love affair between him and the victim girl. Hence, a case was registered against the petitioner/accused for the offence punishable under Sections 11(i) r/w Section 12 and Section 11(iv) r/w. Section 12 of the Protection of Children from Sexual Offences Act, 2012 and under Section 4 of the Tamil Nadu Prevention of Woman Harassment Act, 2002.

5. Learned counsel for the petitioner/accused submitted that there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the petitioner may be enlarged on bail pending disposal of the above Criminal Appeal.

6. 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.

7. Heard the learned counsels appearing on either side and also perused the materials placed on record.

8. The submissions made by the learned counsel appearing on either side are considered. The evidence given by the victim girl in respect of the offence under Sections 11(i) and 11(iv) of POCSO Act requires detailed appraisal. Further the appeal is not likely to be taken for final hearing in the near future.

9. Accordingly, considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail is granted on the following conditions:

(a) The petitioner/accused is ordered to be released on bail, on 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 learned Sessions Judge, Mahila Court, Perambalur.

(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.

(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.

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

-sd/-

21/03/2022

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,
MAHILA COURT, PERAMBALUR.

2 THE SUPERINTENDENT,
CENTRAL JAIL,
TIRUCHIRAPPALLI.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PERAMBALUR,
PERAMBALUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1 C.C. to M/S.P.MANI Advocate on payment of necessary charges
SR.NO. 4222

Order

in
CRL MP.3133/2022
in
CRL A.260/2022

Date :21/03/2022

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RW 23/03/2022