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Crl.M.P.No.4422 of 2022 in Crl.A.No.374 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.4422 of 2022

in

Crl.A.No.374 of 2022

P.Prakash, M/25,
S/o. Perumal

... Petitioner

Versus

State rep.by the Inspector of Police,
Pennagaram All Women Police Station,
Dharmapuri District.
(Crime No.7 of 2016)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Sections 389 (1) of the Code of Criminal Procedure, pleased to suspend the sentence imposed in him by the Learned Fast Track Mahila Court, (Sessions Judge), Dharmapuri, in Special S.C.No.7 of 2017, dated 30.11.202, and enlarge him on bail, pending disposal of the Criminal Appeal.

For Petitioner : Mr.C.P.Sivamohan

For Respondent : Mr. S. Vinoth Kumar
Govt. Advocate (Crl. Side)



ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence imposed in Spl.S.C.No.7 of 2017, dated 30.11.2021 by the Learned Fast Track Mahila Court, (Sessions Judge), Dharmapuri, and enlarge him on bail, pending disposal of the Criminal Appeal.

2.Heard the learned Counsel for the petitioner and learned Government Advocate (Criminal Side) for the respondent.

3.The learned Counsel for the petitioner taking this Court through the Judgment of the Trial Court, would submit that this is the case where initially, the victim girl deposed before the Doctor that she had been given an injunction by an unknown person and the intercourse was made, but, later on, she herself changed her story. On the other hand, on perusal of the allegations, it would be clear that the accused was the cousin of the victim child and the entire allegations are in the nature of pre-marital affair. Therefore, he prays for granting suspension of sentence to the petitioner.

4.Per contra, the learned Government Advocate (Crl.Side) would submit



that in this case, the prosecution has proved the penetrative sexual assault as well as the victim child age is less than 18 years. Therefore, the Trial Court has rightly convicted the petitioner and opposed for granting the suspension of sentence to him.

5.I have considered the rival submissions made on either side and perused the materials on record.

6.Considering the nature of allegations and the deposition of the victim child before the Doctor, considering the relationship between the petitioner/accused and the victim/child, considering the fact that the petitioner/accused is in Jail from 30.11.2021 and considering the fact that it may take a while before this Court to prepare appeal book made ready and to decided the appeal for final hearing, I am of the view that this is a fit case for granting suspension of sentence to the petitioner pending disposal of the appeal on the following conditions:-

(a) the petitioner is ordered to be released on bail, on his 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;



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(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 Aadhar 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 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 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.

7. This Criminal Miscellaneous Petition is ordered accordingly.

12.08.2022

Index : yes/no
Speaking order/Non-speaking order

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- 1.The Fast Track Mahila Court, (Sessions Judge), Dharmapuri,
- 2.The Inspector of Police, Pennagaram All Women Police Station,
Dharmapuri District.
- 3.The Public Prosecutor, Madras High Court.
- 4.The Superintendent, Central Prison, Vellore.



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D.BHARATHA CHAKRAVARTHY. J.,

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