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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.12620 of 2021

in

Crl.A.No.611 of 2021

Murugan

... Petitioner

Vs.

The State rep. by  
The Inspector of Police  
All Women Police Station,  
Krishnagiri District.  
(Crime No.11 of 2018)

... Respondent

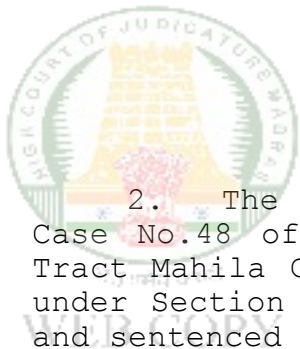
PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed by the judgment dated 11.05.2021 in Special Sessions Case No.48 of 2018 on the file of Magalir Neethimandram (Fast Tract Mahila Court), Krishnagiri and release the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.V.Parthiban  
For Mr.M.Jayachandran

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

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the learned Sessions Judge, Magalir Neethimandram (Fast Tract Mahila Court), Krishnagiri by the judgment dated 11.05.2021 in Special Sessions Case No.48 of 2018.



2. The petitioner/appellant herein is the accused in Sessions Case No.48 of 2018 on the file of the Magalir Neethimandram (Fast Tract Mahila Court), Krishnagiri. He was found guilty of the offence under Section 16 r/w 17 of POCSO Act, 2012 and he has been convicted and sentenced as under:

| S.No.                                           | Conviction                     | Sentence                                                                                       |
|-------------------------------------------------|--------------------------------|------------------------------------------------------------------------------------------------|
| 1.                                              | Section 16 r/w 17 of POCSO Act | 10 years Rigours Imprisonment and fine of Rs.10,000/- in default to undergo R.I for six months |
| The sentences are directed to run concurrently. |                                |                                                                                                |

Aggrieved against the same, the petitioner has preferred this appeal.

3. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future 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 exempted from surrendering before the Trial Court.

4. 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.

5. Heard the learned counsel on either side and also perused the materials placed on record.

6. 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 Magalir Neethimandram, (Fast Track Mahila Court), Krishnagiri.



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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.

(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.

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

-sd/-  
28/02/2022

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),  
KRISHNAGIRI

2 THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
KRISHNAGIRI DISTRICT

3 THE SUPERINTENDENT OF POLICE  
CENTRAL PRISON, VELLORE.



4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

WEB COPY +1 C.C. to M/S M.JAYACHANDRAN Advocate on payment of necessary  
charges SR.NO.3076

Order  
in  
CRL MP.12620/2021  
in  
CRL A.611/2021

Date :28/02/2022

From 7.2.2001 the Registry is issuing certified  
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JPA 28/02/2022