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Crl.M.P.No.10983 of 2022 in Crl.A.No.824 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.10983 of 2022

in

Crl.A.No.824 of 2022

Subash (M/21),
S/o.Mani

... Petitioner

Versus

The Inspector of Police,
Rosanai Police Station,
Villupuram District.
(Crime No.07 of 2017)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure, to suspend the execution of the sentence against the petitioner/accused by the New Spl.S.C.No.7 of 2019, Old Spl.S.C.No.19 of 2017, on the file of the Learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, dated 01.07.2022 and enlarge the petitioner on bail, pending disposal of this appeal.

For Petitioner : Mr. P. Muthamizselvakumar

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

ORDER



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This Criminal Miscellaneous Petition is to suspend the sentence imposed on the petitioner by the Judgment, dated 01.07.2022 made in New Spl.S.C.No.7 of 2019, Old Spl.S.C.No.19 of 2017, on the file of the Learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, pending disposal of the above appeal.

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

3.Learned Counsel for the petitioner, taking this Court through the evidence of P.W.5 would submit that the this is the case, where the petitioner and the victim were in relationship and only because of the instigation of the victim child, the petitioner would come and both of them eloped, since the parents of the victim child arranged her marriage with one of her relatives, not taking into account of her wishes. Therefore, he prays for grant of suspension of sentence.

4.Per contra, the learned Government Advocate would submit that in



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any event the prosecution has proved the age of the victim girl is less than 18 years, the offence under the POCSO Act would be attracted. Further, he submitted that the Trial Court has rightly convicted the petitioner and opposed the prayer of grant of suspension of sentence.

5.I have considered the rival submissions made on either side and perused the material records of this case.

6.Considering the submissions made on the either side, considering the nature of allegations, in this case being nature of love affair, considering the fact that the incident happened at the instances of the victim and considering the fact that the petitioner is in prison from 07.01.2021, and considering the fact that it may take a while for this Court to take up the appeal for final hearing, I am of the view that this is a fit case for granting suspension of sentence, and the petitioner is entitled to enlarge on bail, 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



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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 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.

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Index : yes/no

Speaking order/Non-speaking order

klt

To



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- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.
- 2.The Public Prosecutor, High Court of Madras.
- 3.The Superintendent of Police, Central Prison, Cuddalore.
- 4.The Inspector of Police, Rosanai Police Station, Villupuram District.



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D.BHARATHA CHAKRAVARTHY. J.,

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