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Crl.M.P.No.12081 of 2022 in Crl.A.No.852 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.12081 of 2022

in

Crl.A.No.852 of 2022

Sangiliappan

.. Appellant

Vs

The State Rep. by
Inspector of Police
AWPS Udumalpet Police Station
Tiruppur District
(Crime No.21 of 2021)

.. Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) r/w Section 439 of the Code of Criminal Procedure to suspend the sentence of imprisonment imposed in the judgment passed against the petitioner / appellant in Spl.Sessions Case No.105 of 2021 dated 31.05.2022 on the file of the learned Sessions Judge, Mahila Court (Fast Track Mahila Court) Tiruppur and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Appellant : Mr.K.Prabakar

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



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ORDER

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Learned counsel for the petitioner submits that, in this case, even though there were embellishments during the trial, the Trial Court has disbelieved the same and only in respect of the first occurrence which is mentioned in the complaint, the Trial Court convicted the petitioner. Learned counsel took this Court in respect of the allegations contained in the ordinary complaint. This apart, he would submit that, this is a case in which there is a dispute between the parties and this complaint was lodged after one week of the complaint lodged by the accused. He would submit that the petitioner is in prison from the date of arrest even pending trial, that is, from 23.10.2021.

2. *Per contra*, learned Government Advocate (Crl. Side) would submit that the age of the accused is fifty seven years and the victim child was only thirteen years at the time of the incident. Therefore, the allegations are serious in nature.

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



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4. Considering the nature of allegation for which the Court has convicted, considering the grounds raised in the appeal for the purpose of *prima facie* case, considering the fact that the petitioner is under trial from 23.10.2021, considering the fact that it may take a while for this Court to take up the appeal for final hearing and considering the sentence imposed on the petitioner under Section 10 of the POCSO Act, I am of the view that this is a fit case for grant of suspension of sentence, pending appeal and therefore, I am inclined to suspend the sentence and grant bail to the petitioner 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 Sessions Judge, Mahila Court (Fast Track Mahila Court) Tiruppur;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety



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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.

5. This Criminal Miscellaneous Petition is ordered accordingly.

02.09.2022

Index : yes/no

Speaking order/Non-speaking order

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- To
1. Inspector of Police
AWPS Udumalpet Police Station
Tiruppur District
(Crime No.21 of 2021)
 2. The Public Prosecutor, High Court of Madras.
 3. The Sessions Judge, Mahila Court (Fast Track Mahila Court)
Tiruppur.
 4. The Superintendent
Central Prison, Coimbatore.



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D.BHARATHA CHAKRAVARTHY. J.,

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