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Crl.M.P.No.13461 of 2022 in Crl.A.No.976 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.13461 of 2022

in

Crl.A.No.976 of 2022

Rajasekar

... petitioner

/versus/

State, represented by
The Inspector of Police,
All Women Police Station,
Jayankondam,
Ariyalur District.
(Cr.No.22/2021)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w.439 of Cr.P.C., to suspend the sentence of imprisonment imposed in the judgment dated 05.08.2022 made in Spl.S.C.No.44 of 2021 on the file of the Sessions Judge/Fast Track Mahila Court, Ariyalur and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For petitioner

... Mr. M.Guruprasad
For Mr/s.D.Lakshipathy

For Respondent

... Mr.C.E.Pratap,
Govt. Advocate (Crl.Side)



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner/appellant for the offences punishable under Sections 448, 354A(1)(i), 506(ii) IPC and 9(1) and 10 of Protection of Children from Sexual Offences Act, by the Sessions Judge (Fast Track Court), Mahila Court, Ariyalur in Spl.S.C.No.44/2021 and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The petitioner who is the sole accused in Spl.S.C.No.44/2021 was convicted and sentenced by the Sessions Judge (FTC), Mahila Court, Ariyalur as follows:

<i>petitioners's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
sole accused	Section 10 of Protection of Children from Sexual Offences Act	to undergo 7 years Rigorous Imprisonment and to pay a compensation of Rs.25,000/-, in default undergo one year Simple Imprisonment
	Section 451 IPC	to undergo 2 years Rigorous Imprisonment and to pay a compensation of Rs.2,500/-, in default undergo 3 months Simple Imprisonment
	Section 506(ii) IPC	to undergo 2 years Rigorous Imprisonment and to pay a compensation of Rs.2,500/-, in default undergo 3 months Simple Imprisonment

The petitioner was directed to pay a sum of Rs.2,00,000/- to the victim girl as



final compensation after deducting the amount if already given.

WEB COPY 3. Aggrieved over the conviction and sentence imposed by the learned trial Judge, the petitioner has preferred the present Criminal Appeal along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. Heard the learned counsel appearing for the petitioner and the learned Govt. Advocate (CrI.Side) appearing for the State.

5. The learned counsel for the petitioner submitted that contrary to the allegations made in the FIR lodged by PW1, he had falsely deposed that the petitioner had attempted to commit rape, but the learned trial Judge, accepting the evidence of PW1, without appreciating the material contradictions in the deposition made by him supporting prosecution, convicted the petitioner, based on the sole evidence of PW1; apart from that, no independent witness was examined on behalf of prosecution to substantiate its case.

6. He would further submit that there are arguable points in this appeal and the petitioner has a good and fair chance of success in this appeal. The petitioner is now confined in Central Prison, Trichy and fine amount is not



yet paid. Thus, he prayed for suspension of sentence imposed on the petitioner till the disposal of this Criminal appeal.

7. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. Accordingly, the relief of suspension of sentence alone is granted on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-(Rupees ten thousand only) along with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge/Fast Track Mahila Court, Ariyalur.
- (ii) The petitioner and the sureties shall affix their photograph and Left Thumb Impression in the bond and the Trial Court may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity.
- (iii) The petitioner shall appear before the trial Court as and when required.

20.12.2022

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Note : Issue Order copy on 21.12.2022

To

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1. The Sessions Judge/Fast Track Mahila Court, Ariyalur
2. The Inspector of Police,
All Women Police Station,
Jayankondam,
Ariyalur District.
3. The Superintendent,
Central Prison, Trichy.
4. The Public Prosecutor
High Court, Madras

V.SIVAGNANAM, J.



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