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Crl.M.P.No.11460 of 2021 in Crl.A.No.529 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.11460 of 2021
in Crl.A.No.529 of 2021

Jegan

... Petitioner

Versus

State represented by,
The Inspector of Police,
Railway Police Station,
Erode District.
(Crime No.05 of 2018)

... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Section 389(i) r/w 439 of the Code of Criminal Procedure, pleaded to suspend the sentence in the Judgment dated 16.04.2021 made in Spl.S.C.No.15 of 2018 on the file of the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Erode and release the petitioner on bail pending the Criminal Appeal.

For Petitioner : Mr.B.Mohan

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



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ORDER

This Criminal Miscellaneous Petition is filed to suspend the sentence in the Judgment dated 16.04.2021 made in Spl.S.C.No.15 of 2018 on the file of the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Erode and release the petitioner on bail pending the Criminal Appeal.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent.

3. Learned counsel appearing on behalf of the petitioner would submit that in this case, the allegation is that the victim child was sleeping in the middle berth and suddenly she felt that someone touched her breast. Immediately, when she switched on the light, she saw that the accused was sitting in the side berth. He would further submit that even in the evidence before the Court, she herself has admitted that she cannot for sure tell whether it was only the accused, who had done the said act and therefore, he would submit that the petitioner is in jail from 16.04.2021, prays for



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suspension of sentence.

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4. Per contra, learned Government Advocate (Crl. Side) would submit that the child was below the age of 18 years. She has said that when she woke up, it is only the petitioner, who was sitting in the side berth and that somebody touched her. Therefore, prosecution has proved the offence and the trial Court has rightly convicted the petitioner.

5. Considering the nature of the allegations, considering the evidence of the victim child, considering the fact that the petitioner is in jail from 16.04.2021 and considering the fact that it may take a while for this Court to prepare the appeal book and post the matter for final hearing, I am of the view that this is a fit case for grant of suspension of sentence pending disposal of the Appeal. 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 Trial Court;

(b) the petitioner and the sureties shall affix their photographs and



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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.

6. This Criminal Miscellaneous Petition is ordered accordingly.

18.08.2022

Index : yes/no

Speaking order/Non-speaking order

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To

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1. The Sessions Judge, Magalir Neethi Mandram,
Fast Track Mahila Court,
Erode.
2. The Superintendent of Police,
Central Prison,
Coimbatore.
3. The Inspector of Police,
Railway Police Station,
Erode District.
4. The Public Prosecutor,
High Court of Madras.

D.BHARATHA CHAKRAVARTHY. J.,



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