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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.12289 of 2021

in Crl.A.No.594 of 2021

Arunkumar

... Petitioner

..Vs..

State By:

.... Respondent

The Inspector of Police,
All Women Police Station,
Sethiyathope, Cuddalore District,
Crime No.4 of 2019.

PRAYER: Criminal Miscellaneous petition filed under Section 389(i) of Cr.P.C, to suspend the sentence passed by the learned Sessions Judge, Mahila Court, Cuddalore in S.C.No.242 of 2019 dated 29.07.2021 and enlarge the petitioner on Bail, pending disposal of the Criminal Appeal.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Mr.S.Sugendran
Government Advocate (crl.side)

ORDER

(This Case has been heard through video conferencing)

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed by the learned Sessions Judge, Mahila Court, Cuddalore in S.C.No.242 of 2019 dated 29.07.2021 and enlarge the petitioner on Bail, pending disposal of the Criminal Appeal.

2.In and by the judgment of the trial court, petitioner/accused was acquitted for the offence under Section 306 r/w 116 IPC and convicted for the offence under Section 376 (1) IPC and sentenced to undergo 10 years R.I. with fine of Rs.30,000/- and in default to pay, sentenced to undergo two years S.I. and convicted for the offence under section 417 IPC and sentenced to undergo one year R.I. and to pay fine of Rs.10,000/- and in default to undergo three months S.I.



and for the offence under section 506(ii) IPC sentenced to undergo five years R.I. and to pay fine of Rs.10,000/- and in default to undergo one year S.I. and against which the present appeal has been filed.

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3. Learned counsel appearing for the petitioner would submit that the victim prosecutrix was aged 20 years at the time of occurrence. A case of consensual relationship between the petitioner and the victim has been falsely projected as a case of rape. Even as per the evidence of P.W.8, the doctor who has examined the victim with regard to sexual offence has stated that the prosecutrix had informed her that the petitioner was in love for more than two years and they had sexual intercourse for more than 20 times at her house. He would further submit that there are arguable points available in the Criminal Appeal Case, 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 Case.

4. The respondent has filed a counter. Mr.S.Sugendran, learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner on inducement of false promise of marrying the victim girl had sexual intercourse with her and later refused to marry her and he has also threatened the victim. On the side of the prosecution, P.W.1 to P.W.12 were examined and Exs.P1 to Ex.P11 were marked. However, no evidence was let in on the side of the defence. The trial court finding that the prosecution has proved the case beyond reasonable doubt had found the petitioner guilty and convicted him as stated above. He would oppose for grant of suspension of sentence to the petitioner.

5. Heard the learned counsels and perused the materials on record including the deposition of witnesses.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner/accused, this Court is of the view that the petitioner has made out case for grant of suspension of sentence. Accordingly, till the disposal of the Criminal appeal, the reliefs of suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioner/accused shall execute own bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only), before the Superintendent of the concerned prison/Jailor concerned, in which the petitioner has been confined and thereafter, on his release, the petitioner shall execute two sureties for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)**, each for a like sum to the satisfaction of the learned Judicial Magistrate-II, Chidambaram within 15 days from the date of commencement of the court's normal functioning, failing which the bail granted by this court shall stand dismissed



automatically and on further conditions that:

- ii. The petitioner/accused shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

8. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-
01/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

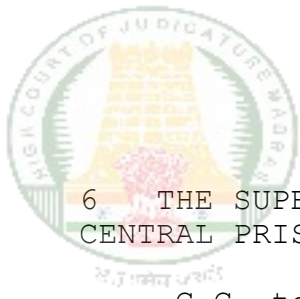
1 THE SESSIONS JUDGE
MAHILA COURT, CUDDALORE.

2 THE JUDICIAL MAGISTRATE,
NO.II, CHIDAMBARAM, CUDDALORE DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SETHIYATHOPE, CUDDALORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



6 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

C.C. to M/S. R.NALLIYAPPAN Advocate on payment of necessary charges

Order

in
CRL MP.12289/2021
in
CRL A.594/2021

Date :01/02/2022

From 7.2.2001 the Registry is issuing certified
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TA-02/02/2022