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Crl.M.P.No.18957 of 2022 in Crl.A.No.315 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.18957 of 2022

in

Crl.A.No.315 of 2022

Prabhu @ Selvaprabhu

... petitioner

/vs/

State, represented by
the Inspector of Police,
Villupuram West Police Station,
Villupuram. (Cr.No.267/2017)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389 of Cr.P.C., to suspend the sentence imposed on the petitioner/appellant for the offences punishable under section 376(2)(1), r/w.511 of IPC by the District Mahila Court (Mahila Fast Track) Villupuram in S.C.No.68/2018 and enlarge him on bail pending disposal of the criminal appeal.

For petitioner

... Mr. K.V. Shanmuganathan

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 section 376(2)(1), r/w.511 of IPC by the District Mahila



Court (Mahila Fast Track) Villupuram in S.C.No.68/2018 and enlarge him on bail pending disposal of the above criminal appeal.

2. The petitioner, who is the sole accused in S.C.No.68 of 2018 was convicted and sentenced by the District Mahila Court (Mahila Fast Track) Villupuram as follows:

<i>petitioners's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
sole accused	Section 376(2)(1) IPC, r/w.511 IPC	to undergo 5 years RI and to pay a fine of Rs.1,00,000/- to the victim girl and ordered to pay the said amount to the victim as compensation after the appeal period under section 357 Cr.P.C.

The fine amount was not paid.

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 (crl.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 committed 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, Cuddalore 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 likesum to the satisfaction of the Judicial Magistrate I, Villupuram.
- (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

msr

Note : Issue Today

To

1. The Judicial Magistrate 1, Villupuram.
2. The District Mahila Court (Mahila Fast Track) Villupuram.
3. The Inspector of Police,
Villupuram West Police Station,
Villupuram.
4. The Superintendent,
Central Prison, Cuddalore.
5. The Public Prosecutor
High Court, Madras



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V.SIVAGNANAM, J.

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