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Crl.M.P.No.3195 of 2023 in Crl.A.No.224 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.3195 of 2023

in

Crl.A.No.224 of 2023

Karuna @ Karunakaran

... Petitioner

/vs/

1. State by the Deputy Superintendent of Police,
Vaiyambodi Sub Division, All Women Police Station,
Vaniyambodi, Thirupattur District. [Vellore District]

2. Rajeshwari

... Respondents

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w.439 of Cr.P.C., to suspend the sentence imposed against the petitioner in Spl. S.C.No.14 of 2016 on the file of the Fast Track Magalir Neethimandram, [Sessions Court], Vellore, Vellore District dated 18.07.2018 and enlarge the petitioner on bail pending disposal of the Crl.A.No.224 of 2023.

For Petitioner

... Mr. E.Kannadasan

For Respondents

... Mr.R.Vinothraja, GA (crl.side) – R1

R2 – No appearance

**ORDER**

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This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment imposed in the judgment dated 18.07.2018 made in Spl.S.C.No.14 of 2016 on the file of the Fast Track Magalir Neethimandram, [Sessions Court], Vellore, Vellore District and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. The petitioner is the sole accused in Spl.S.C.No.14 of 2016 on the file of the Fast Track Magalir Neethimandram, [Sessions Court], Vellore, Vellore District. The respondent police prosecuted the petitioner/accused for the offences under sections 366, 376 [2] [i] of IPC and Section 6 read with 5 [m] of POCSO Act and sections 3 [1] [W] [i], 3 [2] [v] of SC/ST [POA] and the trial Court after trial, by its judgment dated 18.07.2018, convicted and sentenced the petitioner as follows :

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.366 IPC	To undergo 7 years RI and a fine of Rs.1,000/-, in default in payment of fine, to undergo RI for one month.
	U/s.6 r/w. 5 [m] of POCSO Act,	To undergo 10 years RI and to pay a fine of Rs.2000/-, in default in payment of fine, to



<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
	2012	undergo two months RI
The sentence of imprisonments imposed on the petitioner were ordered to run concurrently As the petitioner was convicted and sentenced under section 6 read with 5[m] of POCSO Act, he was not sentenced separately under section 376 [2] [i] of IPC. The petitioner was not found guilty under section 3 [1] [W] [i], 3[2] [v] of SC/ST [POA] Act.		

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.14 of 2016, the petitioner has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the victim girl in her 164 Cr.P.C. statement has not stated that the petitioner/accused had committed sexual assault and she has only stated that the accused attempted to commit such an offence. He further stated that the Doctor, P.W.10 also deposed that the victim girl informed him about the attempt committed by the accused for committing sexual assault. He would further submit that there are arguable points in this appeal and the petitioner has every chance to



succeed in this Criminal appeal and that the petitioner is in judicial custody from 18.07.2018. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. Heard learned counsel for the petitioner and the learned Govt. Advocate (crl.side) appearing for the first respondent.

6. On a perusal of records, it is seen that 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. Considering the nature of the offence and the petitioner is under incarceration from 18.07.2018, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner is ordered to be released on bail on executing 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 Fast Track Magalir Neethimandram, [Sessions Court], Vellore, Vellore District



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- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the abovesaid Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;
- (iii) The petitioner shall appear before the trial Court as and when required.

21.04.2023

vrc

To

1. Fast Track Magalir Neethimandram, [Sessions Court],
Vellore, Vellore District
2. The Deputy Superintendent of Police,
Vaiyambodi Sub Division, All Women Police Station,
Vaniyambodi, Thirupattur District. [Vellore District]
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Vellore.



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V.SIVAGNANAM, J.

VRC

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