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Crl.M.P.No.2989 of 2023 in Crl.A.No.205 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.2989 of 2023

in

Crl.A.No.205 of 2023

K. Poongothai

... Petitioner

/vs/

The State, represented by
the Deputy Superintendent of Police,
Perur Sub Division,
Sulur Police Station,
Crime No.723 of 2011

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioner in S.C.No.193 of 2019 passed by the Court of Sessions, Mahila Court/Additional Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore by a judgment dated 16.02.2023 and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

For Petitioner

... Mr. K. Balasubramaniam

For Respondent

... Mr.C.E.Pratap, GA (crl.side)



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in S.C.No.193 of 2019 passed by the Court of Sessions, Mahila Court/Additional Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore by a judgment dated 16.02.2023 and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

2. The petitioner, who is the sole accused in S.C.No.193 of 2019 is convicted and sentenced by the trial court, by its judgment dated 16.02.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.498(A) IPC	To undergo one year RI and a fine of Rs.1000/-, in default in payment of fine, to undergo SI for a period of 3 months.
	U/s.306 IPC	To undergo three years RI and a fine of Rs.1000/-, in default in payment of fine, to undergo 6 months SI.
		Acquitted from the charge u/s.4 of Dowry Prohibition Act.



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3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in S.C.No.193 of 2019, 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 judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. He further submitted that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. 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 respondent.

6. 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 other facts and circumstances of the case, 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 shall surrender before the Court of Sessions, Mahila Court/Additional Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore within two weeks from the date of receipt of a copy of this order and on such surrender, 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 above said Court.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the above said 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.

02.03.2023

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To

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1. The Court of Sessions, Mahila Court/Additional Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.
2. The Deputy Superintendent of Police,
Perur Sub Division,
Sulur Police Station.
3. The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.



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