



Crl.M.P.No.3265 of 2023 in
Crl.A.No.235 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP No.3265 of 2023 in
Crl.A No.235 of 2023

Devaraj

... Petitioner

Vs.

State rep. by the Inspector of Police,
All Woman Police Station,
Denkanikottai,
Krishnagiri District.
(Crime No.6/2021)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner in Special S.C.No.22 of 2021, vide order dated 16.02.2023 passed by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.A.Gokulakrishnan, Additional
Public Prosecutor

ORDER



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This petition has been filed to suspend the sentence imposed on the petitioner, in Special S.C.No.22 of 2021, vide order dated 16.02.2023 passed by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

2.The learned Trial Judge, vide order dated 16.02.2023 passed in Special S.C.No.22 of 2021, convicted and sentenced the petitioner, as extracted hereunder.

<i>provision under which convicted</i>	<i>Sentence</i>
Sec.366 IPC	4 years rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo 3 months simple imprisonment.
Section 9 of Prohibition of Child Marriage Act, 2006	2 years rigorous imprisonment and to pay a fine of Rs.3000/-, in default, to undergo 3 months simple imprisonment.
Sec.5(1)(J)(ii) r/w.6 of POCSO amendment Act,2019	20 years rigorous imprisonment and to pay a fine of Rs.6000/-, in default, to undergo 1 year simple imprisonment.



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3. Aggrieved by the judgment of conviction passed by the Trial Court, the petitioner filed the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4. The learned counsel for the petitioner submitted that the judgement of the trial Court is contrary to law, weight of evidence and probabilities of the case. He would further submit that there are arguable points in the above Criminal Appeal and the petitioner has every chance to succeed in this Criminal Appeal. He further submitted that already, the petitioner has paid the fine amount and hence, prayed for suspension of sentence. He further submitted that, the petitioner is in judicial custody from 11.04.2021 and hence, prayed for suspension of sentence.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the impugned judgment and the materials on record.



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6. Taking into consideration of the above submission of the learned counsel appearing on both sides, this Court finds that, the petitioner has substantial grounds in this Criminal Appeal, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

7. Accordingly, it is ordered as follows:-

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute 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 learned Sessions Judge, Fast Track Mahila Court, Krishnagiri.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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(iii) The petitioner shall appear before the above said Court, as and
when required.

20.03.2023
(2/2)

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To

1. learned learned Sessions Judge, Fast Track Mahila Court, Krishnagiri
2. The Superintendent, Central Prison, Vellore.
3. The Inspector of Police,
All Woman Police Station,
Denkanikottai,
Krishnagiri District.
(Crime No.6/2021)
4. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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