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CrI.M.P.No.4971 of 2023 in CrI.A.No.389 of 20--



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.M.P.No.4971 of 2023

in

CrI.A.No.389 of 2023

Bharath

... Petitioner

/vs/

State Rep by Inspector of Police,
Ammapettai Police Station,
Erode District
(Crime No.118 of 2021)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w 439 of Cr.P.C., to suspend the sentence of imprisonment imposed in the judgment dated 30.12.2022 passed in Special S.C.No.44 of 2021 on the file of Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner ... Mr. R.Nalliyappan

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



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in Spl.S.C.No.44 of 2021 on the file of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode, dated 30.12.2022 and release the petitioner on bail, pending disposal of the above appeal.

2. The petitioner in Spl.S.C.No.44 of 2021 is acquitted from the offence under Section 9 of Prohibition of Child Marriage Act, 2006 and convicted and sentenced by the trial court, by its judgment dated 30.12.2022 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole Accused	U/S.363 I.P.C	To undergo 5 years RI and a fine of Rs.2,000/-, in default, to undergo 2 months SI
	U/S.5(1)r/w 6 of the Protection of Children from Sexual Offences Act, 2012	To undergo 20 years RI and a fine of Rs.5,000/-, in default, to undergo 3 months SI



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3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.44 of 2021, 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 the the victim girl has developed love affair with the accused and due to which, she was taken by the accused from her home. Thereafter, a case has been registered against the petitioner and he was prosecuted for the offences stated above. He also submitted that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal and the petitioner is now confined in prison. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

5. The learned Additional Public Prosecutor appearing for the



respondent conceded that there was a love affair between the victim girl and the accused.

6. Heard both sides and perused the impugned judgment and also the entire material evidence available on record.

7. On perusal of the records, it is revealed that the petitioner and the victim girl had love affair with each other. Due to that love affair, the victim girl went with the accused. Hence, a case has been registered against the petitioner in Crime No.118 of 2021 for girl missing on 24.03.2021.

8. Taking into consideration of the above submission of the learned counsels 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.

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



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(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 Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Erode.

(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.

27.04.2023

srn

To

- 1.The Sessions Judge, Magalir Neethi Mandram
(Fast Track Mahila Court), Erode
2. Thenspector of Police,
Ammapettai Police Station,
Erode District
- 3.The Public Prosecutor, High Court, Madras.
- 4.The Superintendent, Central Prison,
Coimbatore.

V.SIVAGNANAM, J.

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