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Crl.MP.No.5034 of 2023
in Crl.A.No.397 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.5034 OF 2023

IN

CRL.A.NO.397 OF 2023

A.Sakthivel

... Petitioner

Vs.

The Inspector of Police
All Women Police Station
Ariyalur District.
(Crime No.08/2020)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 374(2) Cr.P.C. to suspend the sentence imposed in the judgment dated 20.01.2023 in Spl.SC.No.40 of 2020 on the file of Fast Track Mahila Court, Ariyalur and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.R.Venkatesulu

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

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The petitioner, who is the accused in Spl.SC.No.40 of 2020 on the file of Sessions Court, Fast Track Mahila Court, Ariyalur, seeks suspension of his sentence of imprisonment.

2.The Trial Court, by judgment dated 20.01.2023, passed in Spl.SC.No.40 of 2020, convicted the petitioner for the offences punishable under Section 6 of POCSO r/w 376(3) IPC r/w 3(1)(w)(i) of ST/ST (POA) Amendment Act, 2015, and sentenced him as extracted hereunder.

<i>Conviction under Section</i>	<i>Sentence</i>
U/s.6 of POCSO Act	20 years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo one year Simple Imprisonment.
3(1)(w)(i) of ST/ST (POA) Amendment Act, 2015	5 Years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo one year Simple Imprisonment.
The period already undergone by the petitioner / accused was ordered to be set off under section 428 Cr.P.C.	

3.Challenging the judgment of conviction and sentence, the petitioner preferred the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.



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4.The learned counsel for the petitioner submitted that there is a love affair between the petitioner and the victim and the deposition of P.W.1 clearly disclose the fact that the victim had love affair with the petitioner. Hence, there are arguable points in this Criminal Appeal. He further submitted that now the petitioner is in judicial custody from 20.01.2023 and thus, prays for suspension of sentence.

5.The learned Additional Public Prosecutor for the respondent though objected to suspend the sentence imposed on the petitioner, he conceded the fact that there is a love affair between the accused and the victim for two years.

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

7.Taking into consideration of the above submission of the learned counsels appearing on both sides, this Court finds that the petitioner



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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.

8. Accordingly, this Criminal Miscellaneous Petition 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 Fast Track Mahila Court (District & Sessions Judge) Ariyalur.

(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



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their Aadhar card or Bank pass Book to ensure their identity.

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

28.04.2023

(2/2)

Note: Issue order copy on 03.05.2023

TK

To

- 1.The District and Sessions Judge
Sessions Court, Fast Track Mahila Court,
Ariyalur.
- 2.The Superintendent
Central Prison
Trichy.
- 3.The Inspector of Police
All Women Police Station
Ariyalur District.
- 4.The Public Prosecutor
High Court of Madras
Chennai.



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V.SIVAGNANAM, J.

TK

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