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Crl.M.P.No.5157 of 2023 in Crl.A.No.406 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5157 of 2023

in

Crl.A.No.406 of 2023

Muniappan @ Bhavathi

... Petitioner

/vs/

State rep by
The Inspector of Police,
All Women Police Station,
Pennagaram,
Dharmapuri District
(Crime No.3 of 2015)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence of imprisonment imposed in the judgment dated 27.03.2023 made in Spl.S.C.No.37 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner

... Mr.N.Manoharan

For Respondent

... Mr.A.Gokulakrishnan
Additional Public Prosecutor.



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment imposed in the judgment dated 27.03.2023 made in Spl.S.C.No.37 of 2015 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dharmपुरi and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2.The petitioner, who is A1 in Spl.S.C.No.37 of 2015 is convicted and sentenced by the trial court, by its judgment dated 27.03.2023 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1	U/s.307 IPC	To undergo 7 years RI and a fine of Rs.25,000/-, in default in payment of fine, to undergo SI for a period of 6 months.

3.Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.37 of 2015, 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. According to the prosecution case, the petitioner/A1 had allegedly committed sexual assault on the victim girl and also broken her legs and hands with a view to commit murder. The victim girl, viz, PW1 was examined by a team of Doctors and they have also submitted their reports, wherein there is no reference about the alleged sexual assault. Thus, he would further submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Further, the petitioner is under judicial custody from 27.03.2022. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5.The learned Additional Public Prosecutor appearing for the respondent has filed a counter stating that Trial Court has rightly convicted the accused only after scrutinizing the evidence of the prosecution witnesses and supporting documents. Hence, he objected to suspend the sentence of imprisonment imposed on the petitioner.

6.Heard learned counsel for the petitioner and the learned



Additional Public Prosecutor appearing for the respondent.

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7.The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner/A1 has been confined in judicial custody from 27.03.2022 onwards. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner/A1 is entitled to the relief of suspension of sentence and bail.

8.Accordingly, the relief of suspension of sentence and bail is granted to the petitioner/A1 on the following conditions:

(i) The petitioner/A1 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 learned Sessions Judge, Fast Track Mahila Court, Dharmapuri.

(ii) The petitioner/A1 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



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their Aadhaar card or Bank pass Book to ensure their identity; and;

(iii) The petitioner/A1 shall appear before the trial Court as and when required.

20.04.2023

(2/2)

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To

1. The learned Sessions Judge, Fast Track Mahila Court, Dharmapuri
2. The Inspector of Police,
All Women Police Station,
Pennagaram, Dharmapuri District
3. The Superintendent, Central Prison,
Vellore.
4. The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.



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