



Crl.MP No.5160 of 2023 in  
Crl.A.No.408 of 2023

WEB COPY **IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 25.04.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**Crl.M.P.No.5160 of 2023**

**in**

**Crl.A.No.408 of 2023**

Sudhir

... Petitioner

Vs.

State Rep  
Inspector of Police,  
W-35 All Women Police Station,  
Tambaram  
(Crime No.213 of 2015)

... Respondent

**PRAYER:** Criminal Miscellaneous Petition filed under Section 397(1) and 439 of Cr.P.C. to suspend the sentence imposed by the Court of Sessions Judge, Mahila Court, Chengalpattu in S.C.No.213 of 2015 enlarge him on bail pending disposal of the criminal appeal.



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For Petitioner : Mr.S.Senthilvel  
For Respondent : Mr.A.Gokulakrishnan  
Additional Public Prosecutor

### **ORDER**

This petition is filed seeking to suspend the sentence imposed on the petitioner in S.C.No.213 of 2015 by the learned Sessions Judge, Mahila Court, Chengalpattu dated 29.03.2023.

2.Totally, there are two accused and the petitioner is arrayed as A1. The Trial Court, by judgment dated 29.03.2023 in S.C.No.213 of 2015 acquitted A1 from the offence under Section 506(2) I.P.C and convicted and sentenced the petitioner as extracted hereunder.

| <b>Rank of the accused</b> | <b>Conviction under Section</b> | <b>Sentence</b>                                                                                                                        |
|----------------------------|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| Accused-1                  | 376 of IPC                      | To undergo Rigorous Imprisonment for 7 years and to pay a fine of Rs.15,000/-, in default, to undergo simple Imprisonment for 1 month. |



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WEB COPY 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.

4.The learned counsel for the petitioner/A1 submitted that the respondent-Police prosecuted the accused for the offence punishable under Section 376 and 506(ii) of I.P.C. After the trial, the trial Court found not guilty for the offence under Section 506(ii) of I.P.C and found guilty for the offence under Section 376 of I.P.C and convicted and sentenced the petitioner/A1 as stated above. He further submitted that the petitioner / A1 had love affair with the victim girl from 2012 to 2014. On the promise to marry her, the petitioner/A1 had sexual intercourse with the victim. Since the petitioner/A1 refused to marry the victim, the case has been registered against him in Crime No.59 of 2014 under Sections 376 and 506(ii) of I.P.C on 10.09.2014.



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5.The learned counsel for the petitioner submitted that the judgment of the Court below is contrary to law, weight of evidence and probabilities of the case. He further submitted that there are arguable points in the criminal appeal and the petitioner has every chance to succeed in this Criminal Appeal and hence, prayed for suspension of sentence.

6.The learned Additional Public Prosecutor appearing for the respondent Police objected to suspend the sentence and grant bail to the petitioner by filing counter. He further submitted that the trial Court has rightly convicted the accused persons only after scrutinizing the evidence of the prosecution witnesses and supporting documents and now, the trial has been completed.



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WEB COPY 7. 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.

8. On perusal of the records and the deposition of the victim, it is noticed that the victim had love affair with the petitioner / A1 from 2012 to 2014 and had sexual intercourse with him on the promise to marry her. Subsequently, the petitioner / A1 denied to marry the victim. Hence, the case has been registered against him. In these circumstances, the trial Court found not guilty of the petitioner for the offence under Section 506(ii) of I.P.C and found guilty for the offence under Section 376 of I.P.C and convicted the petitioner and imposed sentence as stated above. Now, the trial has also been completed.



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WEB COPY 9. 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. Since there is arguable point in favour of the petitioner as stated by the learned counsel for the petitioner, this Court is of the view that the petitioner/A1 is entitled to the relief of suspension of sentence.

10. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner/A1 is directed to be enlarged on bail on condition that the petitioner *shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Mahila Court, Chengalpattu.*



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

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

**25.04.2023**  
**(2/2)**

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**To**

1. The Sessions Judge, Mahila Court, Chengalpattu.
2. The Superintendent, Central Prison, Puzhal-1, Chennai
3. The Inspector of Police, W-35 All Women Police Station, Tambaram
4. The Public Prosecutor, High Court of Madras, Chennai.



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**V.SIVAGNANAM, J.,**

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