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Crl.M.P.No.6392 of 2023 in Crl.A.No.476 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.6392 of 2023

in

Crl.A.No.476 of 2023

Gnanavel

...

Petitioner

/vs/

The State Rep. by
The Inspector of Police,
All Women Police Station,
Dharmapuri District.

...

Respondent

Prayer : Criminal Miscellaneous Petition has been filed under section 389 [1] of Cr.P.C. to suspend the sentence imposed on the petitioner in Spl.S.C.No.11 of 2019 by the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri, dated 10.03.2023 and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner

...

Mr.N.Sudharsan

For Respondent

...

Mr.R.Vinothraja
Government Advocate (Crl.Side)



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in Spl.S.C.No.11 of 2019 by the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri, dated 10.03.2023 and enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner, who is the sole accused, has been prosecuted by the respondent police for the offence under section 5(n) r/w Section 6 of the POCSO Act 2012 in Special S.C.No.11 of 2019 and after trial, the petitioner is convicted and sentenced by the trial court, by its judgment dated 10.03.2023 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.4 of POCSO Act	To undergo 7 years RI and pay a fine of Rs.10,000/-, in default in payment of fine, to undergo 6 months SI

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Special S.C.No.11 of 2019, 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 there is no



allegation of sexual misbehaviour or sexual assault on the victim and the only allegation is that the petitioner forcibly tied thali. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5.The learned Government Advocate (Crl.Side) appearing for the respondent, supporting the impugned judgment, objected to suspend the sentence imposed on the petitioner.

6.Heard the learned counsel for the petitioner and learned Government Advocate (Crl.Side) and perused the complaint, FIR and evidence of victim girl and other material evidence available on record.

7.The statement of the victim girl under Section 164 Cr.P.C. reveal that there is no sexual misbehavior or sexual assault on the victim and it is only stated that the petitioner forcibly tied thali. Hence, this Court is of the view that the petitioner has raised substantial grounds in the appeal which require detailed appraisal. 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 is entitled to the relief of suspension of sentence and bail.



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

(i) The petitioner is ordered to be released on bail on his 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 Fast Track Mahila Court, Dharmapuri District.

(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 on the first working day of every month.

14.06.2023

Index : Yes/No
Internet: Yes/No
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To

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



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V.SIVAGNANAM, J.

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