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Crl.M.P.No.5776 of 2023 in Crl.A.No.463 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5776 of 2023

in

Crl.A.No.463 of 2023

Anantha Reddy

.. Petitioner

/vs/

State, by the Inspector of Police,
All Women Police Station,
Denkanikottai,
Krishnagiri District
(Cr.No.12/2019)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w.439 of Cr.P.C., to suspend the sentence imposed against the petitioner in Spl.S.C.No.24 of 2019 on the file of the Sessions Judge, Fast track Magalir Neethimandram, Krishnagiri, Krishnagiri District, dated 27.03.2023 and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner

... Mr. E.Kannadasan

For Respondents

... Mr.A.Gokulakrishnan, APP



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment against the petitioner in Spl.S.C.No.24 of 2019 on the file of the Sessions Judge, Fast track Magalir Neethimandram, Krishnagiri, Krishnagiri District, dated 27.03.2023 and enlarge the petitioner on bail, pending disposal of the appeal.

2. The petitioner, who is the sole accused in Spl.S.C.No.24 of 2019 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>
Sole accused	U/s.9(m) r/w.10 of POCSO Act, 2012	To undergo RI for 5 years and to pay a fine of Rs.5,000/-, in default in payment of fine, to undergo SI for a period of one year.
	506(i) IPC	To undergo RI for 2 years and to pay a fine of Rs.1,000/-, in default in payment of fine, to undergo 3 months SI

The sentence of imprisonments were ordered to run concurrently.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner by the trial court, he 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. As per the case of prosecution, the petitioner has committed offence under section 9(m) r/w.10 of POCSO Act, 2012, but there is no aggravated sexual assault upon the victim girl. The allegation against the petitioner is that he sexually touched the body of the victim girl in her private parts. Further, though occurrence was alleged to have committed on 05.05.2019, the complaint was given belatedly on 25.05.2019, so, there was a delay in preferring the complaint. Thus, there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. He further submitted that the petitioner is under judicial custody from 27.03.2023 and the entire fine amount imposed by the trial court was paid. Therefore, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Additional Public Prosecutor appearing for the respondent police objected for granting suspension of sentence stating that



that the petitioner has sexually abused the minor victim girl.

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

7. On perusal of records, it is seen from the evidence of PW2 that she has deposed about the bad touch of the accused person. According to the counsel for petitioner, the occurrence took place on 05.05.2019 and the complaint was given belatedly on 25.05.2019 and hence there is arguable point in favour of the petitioner. 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. Considering the nature of the offence and the petitioner is under incarceration from 27.03.2023 and the entire fine amount imposed by the trial court has been paid, this Court is of the view that the petitioner 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 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, Fast Track Magalir Neethimandram, Krishnagiri.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the abovesaid 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.

25.04.2023

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To

1. The Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri.
2. The Inspector of Police,
All Women Police Station,
Denkanikottai,
Krishnagiri District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent,
Central Prison, Salem.

V.SIVAGNANAM, J.



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