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Crl.M.P.No.5969 of 2023 in Crl.A.No.480 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5969 of 2023

in

Crl.A.No.480 of 2023

P. Dinesh Kumar

... Petitioner

/vs/

The Inspector of Police,
W-4, All Women Police Station,
Kilpauk, Chennai
(Cr.No.3/2019)

.. 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 14.03.2023 made in S.C.No.172 of 2021 on the file of the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner ... Mr. J. Hari Krishna

For Respondent ... Mr.R.Vinoth Raja,
Govt. Advocate (Crl.side)



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ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment imposed in the judgment dated 14.03.2023 made in S.C.No.172 of 2021 on the file of the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. The petitioner, who is the sole accused in S./c.No.172 of 2021 is convicted and sentenced by the trial court, by its judgment dated 14.03.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.376(2)(n) IPC	To undergo 10 years RI and a fine of Rs.50,000/-, in default in payment of fine, to undergo SI for a period of 3 months.
	U/s. 417 IPC	To undergo one year RI and to pay a fine of Rs.5000/-, in default in payment of fine, to undergo one month SI
		Acquitted from the charge u/s.506(ii) IPC
The sentence of imprisonments imposed on the petitioner were ordered to run concurrently		



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3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in S.C.No.172 of 2021, 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. The victim girl had love affair with the petitioner/accused from the year 2016 and thereafter betrothal has been performed on 25.07.2019. Pursuant to which, both of them had sexual intercourse on various dates. In the circumstances, since, the petitioner/accused refused to marry the victim, a case has been registered and the petitioner has been prosecuted, so there is a good case for the appellant and the petitioner has every chance to succeed in this Criminal appeal. Further, the petitioner is under judicial custody from 14.03.2023. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Govt. Advocate (crl.side) appearing for the respondent police objected to grant suspension of sentence stating that the petitioner had



sexual intercourse with the victim girl on false promise that he would marry her and thereafter, married another girl, thereby deceived the victim girl. However, he fairly conceded that the victim had given evidence that both of them were having love affair with each other and betrothal has been conducted.

6. Heard learned counsel for the petitioner and the learned Govt. Advocate (crl.side) appearing for the respondent.

7. Perusal of records and deposition, it is noticed that the victim is aged about 28 years and was working as an Accountant in a private company during the relevant period of commission of offence. Perusal of evidence would further reveal that the victim girl has admitted that she had love affair with the accused from the year 2016 and betrothal had taken place on 27.05.2019. Thereafter, the alleged sexual relationship taken place between them. According to the prosecution, the petitioner, on false promise that he would marry her, had sexual intercourse with her forcibly and thereafter refused to marry her. It is the case of the petitioner that the victim girl and the petitioner had love affair with each other and it is a consensual sexual relationship. This court is of the view that the victim is a grown up girl,



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knowing the consequence of the sexual relation ship with the petitioner.

Since the petitioner refused to marry her, a case has been given against him.

In the circumstances, this Court is of the view that there is arguable point in favour of the accused. 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 allegations and evidence of the victim girl and the petitioner is under judicial custody from 14.03.2023, 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:

(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, Mahalir Neethimandram, Allikulam, Chennai.

(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;



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and;

(iii) The petitioner shall appear before the trial Court at 10.30 a.m., on the first working day of every month until further orders

19.06.2023

msr

Note: Issue copy on 20.06.2023

To

1. The Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai.
2. The Inspector of Police,
W-4 All Wome Police Station,
Kilpauk, Chennai.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, New Central Jail,
Puzhal, Chennai.



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V.SIVAGNANAM, J.

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