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Crl.M.P.No.6351 of 2023 in Crl.A.No.513 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.6351 of 2023

in

Crl.A.No.513 of 2023

Anandha Padmanaban Parthasarathy ... Petitioner

/vs/

The Inspector of Police,
W-22 All Women Police Station,
Mylapore, Chennai - 600 004. ... 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 Sessions Case No.374 of 2021 on the file of the learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai, dated 13.04.2023 and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner ... Mr.M.Rakhi

For Respondent ... Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 13.04.2023 imposed on the petitioner in Sessions Case No.374 of 2021 on the file of the Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai 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 offences 376 [2] [n], 417, 420 and 506 [ii] of IPC in Sessions Case No.374 of 2021 and after trial, the petitioner is convicted and sentenced by the trial court, by its judgment dated 13.04.2023 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.376 [2] [n] of IPC	To undergo 10 years RI and pay a fine of Rs.50,000/-, in default in payment of fine, to undergo 6 months SI
	U/s.417 of IPC	To undergo 1 year RI and to pay a fine of Rs.5000/- in default in payment of fine to undergo 1 month SI

The period of detention already undergone by the accused from 13.04.2023 to 17.04.2023 is ordered to be set off under section 428 Cr.P.C. and both the sentences shall run concurrently.



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3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Sessions Case No.374 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 according to the victim PW1, the first occurrence took place on 18.09.2019 but the FIR was registered only 04.06.2020. He further submitted that previously one complaint was given on 26.05.2020 and that was not filed by the prosecution and the same has been filed on the side of the defence during trial and the same has been marked as Ex.D.3 at the time of cross examination PW1 and there are lot of contradictions in the prosecution evidence. It is further submitted that there is a money dispute between the petitioner and P.W.1's family and hence, a false case has been given against the petitioner/accused and there are arguable points in favour of the petitioner. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5.The learned Additional Public Prosecutor 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 Additional Public Prosecutor and perused the complaint, FIR and evidence of victim girl and other material evidence available on record.

7. On perusal of the impugned judgment and the evidence of PW1, it is noticed that the PW1 deposed that the first occurrence took place on 18.09.2019 but the FIR was registered only 04.06.2020. Further, it is noticed that the victim has given another complaint dated 26.05.2020 and that was not marked by the prosecution. But the complaint given on 26.05.2020 by the defacto complainant has been marked through P.W.1 during her cross examination. The petitioner is in custody from 13.04.2023. 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.

8. Accordingly, the relief of suspension of sentence and bail is granted



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

Index : Yes/No
Internet: Yes/No
sms

28.04.2023

Note: Issue order copy on 03.05.2023

To



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1. The Sessions Judge,
Mahalir Neethimandram, Allikulam, Chennai
2. The Inspector of Police,
All Women Police Station,
Mylapore, Chennai - 600 004.
3. The Superintendent, Puzhal - I Prison, Chennai.
4. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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