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Crl.M.P.No.7488 of 2023 in Crl.A.No.391 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.7488 of 2023

in

Crl.A.No.391 of 2023

Aravind @ Aravindkumar

... Petitioner

/vs/

The State

Rep by Inspector of Police,
Muthupettai Police Station,
Thiruthurai Poondi Taluk
Thiruvarur District
Crime No.449 of 2019

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence of imprisonment made against the petitioner / appellant in the case in Spl.S.C.No.5 of 2020 dated 19.07.2021 on the file of the Sessions Court (Fast Track Mahila Corut) Thiruvarur and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



For Petitioner ... Mr. J.Chandran Sundar Sasikumar
for Ms.V.Mythili

For Respondent ... Mr.R.Vinothraja, GA (crl.side)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 19.07.2021 imposed on the petitioner in Spl.S.C.No.5 of 2020 on the file of the learned Sessions Judge, (Fast Track Mahila Court), Thiruvarur and enlarge the petitioner/appellant on bail, pending disposal of the above Criminal Appeal.

2.The petitioner, who is the sole accused in Spl.S.C.No.5 of 2020 is convicted and sentenced by the trial court, by its judgment dated 19.07.2021 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.366 of I.P.C	To undergo 10 years RI and a fine of Rs.5,000/-, in default in payment of fine, to undergo RI for a period of 6 months.



<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
	U/s.9 of the Prohibition of Child Marriage Act, 2006	To undergo 2 years RI and a fine of Rs.10,000/-, in default in payment of fine, to undergo RI for a period of 4 months.
	U/s.6 r/w Section 5(l) of POCSO Act	To undergo 20 ye ars RI and a fine of Rs.10,000/-, in default in payment of fine, to undergo RI for a period of 1 year

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.5 of 2020, 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. He further submitted that the accused was having love affair with the victim. Since the parents have not allowed, they had eloped and married in a temple at Mannarkudi. The victim



admitted the love affair with the accused and also the marriage held in a temple at Mannarkudi, but stated that she was forcibly taken by the accused. He contended that the said statement is a false one. He is in judicial custody from 19.07.2021. Thus, he would further submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. 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 objected to suspend the sentence and grant bail to the petitioner. He further submitted that the victim was taken by the accused forcibly without her consent and married her before the temple at Mannarkudi. The accused took the victim to his relative's house and kept her for 2 days in that house and had intercourse with her. The trial Court has rightly found guilty and sentenced the accused and there is no ground for suspending the sentence.

6.Heard learned counsel for the petitioner and the learned Govt.



Advocate (crl.side) appearing for the respondent.

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7.On perusal of the records, the impugned judgment and the deposition of the victim girl before the trial Court, it is noticed that the victim admitted the acquaintance with the accused and had love affair before the occurrence. Under these circumstances, there is an 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 allegation levelled against the petitioner/accused and also that he is in judicial custody from 19.07.2021, 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



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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 Court (Fast Track Mahila Court), Thiruvarur.

(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 first working day of every month at 10.30a.m.**

13.06.2023

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To

- 1.The Sessions Judge (Fast Track Mahila Court) Thiruvarur
2. The Inspector of Police,
Muthupettai Police Station,
Thiruthurai poondi Taluk
Thiruvarur District
- 3.The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Trichy



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V.SIVAGNANAM, J.

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