



Crl.MP No.7483 of 2023 in
Crl.A.No.580 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.No.7483 of 2023

in

Crl.A.No.580 of 2023

Srinivasan

... Petitioner

Vs.

State Rep
The Inspector of Police,
W-2, All Women Police Station,
Triplicane, Chennai
(Crime No.03 of 2021)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed against the petitioner by the learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai in S.C.No.373 of 2021 dated 12.01.2023 and



CrI.MP No.7483 of 2023 in
CrI.A.No.580 of 2023

release the petitioner on bail till the disposal of C.A.No..... of 2023 on the file of this Court.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This petition is filed seeking to suspend the sentence imposed on the petitioner in S.C.No.373 of 2021 by the learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai dated 12.01.2023.

2. The Trial Court, by judgment dated 12.01.2023 in S.C.No.373 of 2021 convicted and sentenced the petitioner as extracted hereunder.



Crl.MP No.7483 of 2023 in
Crl.A.No.580 of 2023

WEB COPY

Rank of the accused	Conviction under Section	Sentence
Accused	376(2)(1) r/w 511 IPC	To undergo Rigorous Imprisonment for 5 years and to pay a fine of Rs.5,000/-, in default, to undergo simple Imprisonment for 6 months.

3.Challenging the judgment of conviction and sentence, the petitioner preferred the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4.The learned counsel for the petitioner submitted that though the petitioner/Accused was prosecuted for the offence punishable under Section 376(2)(1) of I.P.C, the trial Court found guilty and convicted for the offence punishable under Section 376(2)(1) r/w 511 I.P.C. He further submitted that the petitioner has not committed any



Crl.MP No.7483 of 2023 in
Crl.A.No.580 of 2023

WEB COM offence as per the findings of the trial Court.

5.The learned counsel for the petitioner submitted that the judgment of the Court below is contrary to law, weight of evidence and probabilities of the case. He further submitted that there are arguable points in the criminal appeal and the petitioner has every chance to succeed in this Criminal Appeal and hence, prayed for suspension of sentence.

6.The learned Additional Public Prosecutor appearing for the respondent Police objected to suspend the sentence and grant bail to the petitioner stating that the trial Court has rightly convicted the accused person only after scrutinizing the evidence of the prosecution witnesses and supporting documents.



Crl.MP No.7483 of 2023 in
Crl.A.No.580 of 2023

WEB COPY 7. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the impugned judgment and the materials on record.

8. On perusal of the records and the impugned judgment, it is noticed that the respondent Police prosecuted the petitioner /Accused for having committed the offence under Section 376(2)(1) of I.P.C. However, after trial, the trial Court found guilty for the offence under Section 376(2)(1) r/w 511 of I.P.C instead of offence punishable under Section 376(2)(1) of I.P.C and convicted the petitioner as stated above.

9. Considering the findings of the trial Court as well as the nature of the offence, this Court finds that the petitioner has substantial grounds in this Criminal Appeal, which require detailed



Crl.MP No.7483 of 2023 in
Crl.A.No.580 of 2023

WEB COPY

appraisal. Since there is arguable point in favour of the petitioner as stated by the learned counsel for the petitioner, this Court is of the view that the petitioner/Accused is entitled to the relief of suspension of sentence.

10. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner *shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai.*

(ii) The petitioner and his sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned



Crl.MP No.7483 of 2023 in
Crl.A.No.580 of 2023

WEB COURT may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court as and when required.

01.06.2023
(2/2)

srn

To

1. The Sessions Judge, Mahilar Neethimandram, Allikulam, Chennai.
2. The Superintendent, Central Prison, Puzhal-1, Chennai
3. The Inspector of Police,
W-2, All Women Police Station, Triplicane, Chennai
4. The Public Prosecutor, High Court of Madras, Chennai.

7 of 8



WEB COPY



CrI.MP No.7483 of 2023 in
CrI.A.No.580 of 2023

V.SIVAGNANAM, J.,

srn

CrI.M.P.No.7483 of 2023
in
CrI.A.No.580 of 2023

01.06.2023

(2/2)