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Crl.M.P.No.7681 of 2023 in Crl.A.No.618 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.7681 of 2023

in

Crl.A.No.618 of 2023

Sivanankiri @ Koiyaa @ Sivanogowda
/vs/

... Petitioner

The Inspector of Police,
All Women Police Station,
Dhenkanikottai,
Krishnagiri District
Crime No.12 of 2018

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence imposed in judgment by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri in Spl.S.C.No.79 of 2018 dated 26.04.2023 and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner

... Mr. P. Muthamizh Selvakumar

For Respondent

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



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ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 26.04.2023 imposed on the petitioner in Spl.S.C.No.79 of 2018 on the file of the Sessions Judge, Fast Track Mahila Court, Krishnagiri and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. The petitioner, who is the sole accused in Spl.S.C.No.79 of 2018 is convicted and sentenced by the trial court, by its judgment dated 26.04.2023 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.	To undergo 5 years RI and a fine of Rs.5,000/-, in default in payment of fine, to undergo SI for a period of 1 year.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.79 of 2018, the petitioner has filed the present criminal appeal, along with the instant miscellaneous



petition, seeking suspension of sentence and bail.

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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 there is no sexual assault on the victim girl. The accused had made only an attempt and there is no medical evidence on the side of the prosecution case. 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. Heard learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6. 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.

7. 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 learned Sessions Judge, Fast Track Mahila Court, Krishnagiri.

(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 as and when required.

07.06.2023

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To

1.The learned Sessions Judge, Fast Track Mahila Court, Krishnagiri.



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2. The Inspector of Police,
All Women Police Station,
Dhenkanikottai, Krishnagiri District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Vellore.

V.SIVAGNANAM, J.

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