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CrI.M.P.No.802 of 2023 in CrI.A.No.62 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.M.P.No.802 of 2023

in

CrI.A.No.62 of 2023

Kalaiyarasan

... Petitioner

/vs/

The State, represented by
Inspector of Police,
All Women Police Station,
Bargur Police Station,
Krishnagiri District.

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) of Cr.P.C., to suspend the sentence, dated 08.04.2022 awarded against the petitioner in Special Sessions Case No.31 of 2019 on the file of the Sessions Judge, Fast Track Mahila Court, Krishnagiri and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner ... M/s.R.Saritha

For Respondent ... Mr.C.E.Pratap, GA (crl.side)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence, dated 08.04.2022 awarded against the petitioner in Special Sessions Case No.31 of 2019 on the file of the Sessions Judge, Fast



Track Mahila Court, Krishnagiri and enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner, who is the sole accused in Special Sessions Case No.31 of 2019 is convicted and sentenced by the trial court, by its judgment dated 08.04.2022 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.451 IPC	To undergo one year RI and a fine of Rs.1,000/-, in default in payment of fine, to undergo 3 months RI
	U/s.5(1), r/w.Sec.6 of POCSO Act	To undergo 10 years RI and a fine of Rs.1,000/-, in default in payment of fine, to undergo 6 months RI
	U/s.9 of Prohibition of Child Marriage Act, 2006	To undergo one year RI and a fine of Rs.2,500/-, in default in payment of fine, to undergo 6 months RI

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Special Sessions Case No.31 of 2019, 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 petitioner and the victim girl had love affair with each other, but according to the prosecution case, the petitioner had sexual relationship with the victim girl in the year 2017 and again on 17.06.2018 and subsequently, failed to marry her. The victim girl-PW1 in her evidence admitted that she had relationship with the petitioner on the assurance of the petitioner that he would marry her. Since the petitioner married another women, the complaint has been given, pursuant to which, FIR has been registered on 27.4.2019, which ended in conviction of the petitioner. He would further submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal and the petitioner has been in incarceration since 8.4.2022. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. Heard the learned counsel for the petitioner and learned Govt. Advocate (crl.side) and perused the complaint, FIR and evidence of victim girl and other material evidence available on record.

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 Trial Court;
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the trial 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.

24.01.2023

msr



Cr.L.M.P.No.802 of 2023 in Cr.L.A.No.62 of 20__

To

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1. The Sessions Judge, Fast Track Mahila Court, Krishnagiri
2. The Inspector of Police, All Women Police Station,
Bargur Police Station, Krishnagiri District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison,
Vellore.



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V.SIVAGNANAM, J.

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