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Crl.M.P.No.8619 of 2023 in Crl.A.No.664 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.8619 of 2023

in

Crl.A.No.664 of 2023

Ashok Kumar

... Petitioner

/vs/

State represented by :

The Inspector of Police,

W.17, All Women Police Station

Tiruppur North, Tiruppur District.

[Cr.No.21 of 2021]

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) of Cr.P.C., to suspend the sentence imposed in Spl. S.C.No.102 of 2021 dated 20.01.2023 passed by the Sessions Judge, Fast Track Mahila Court, Tiruppur and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner ... Mr.C.Prabakaran

For Respondent ... Mr.R.Vinothraja
Government Advocate [Criminal Side]

**ORDER**

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2. The petitioner, who is the sole accused in Spl. S.C.No.102 of 2021 is convicted and sentenced by the trial court, by its judgment dated 20.01.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole	U/s.3[a] read with 4 of POCSO Act, 2012	To undergo 7 years RI and pay a fine of Rs.1,000/-, in default in payment of fine, to undergo 6 months RI

The detention period already undergone by the accused from 09.10.2021 to 04.02.2022 is Ordered to be set off under section 428 Cr.P.C. The fine amount has been paid by the accused.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl. S.C.No.102 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 would submit that the respondent police prosecuted the petitioner for having committed an offence under section 3[a] read with Section 4 of Protection of Children from Sexual Offences Act, 2012 and after trial, the trial Court found the accused guilty under section 3[a] read with Section 4 of Protection of Children from Sexual Offences Act, 2012 and convicted him for the aforesaid offence. The learned counsel further contended that the victim had deposed before the trial Court that she had love affair with the accused and on 26.07.2021, the accused had sexual intercourse with her and subsequently, they had sexual intercourse and after two months, her date has postponed and she disclosed the fact to her brother's wife and thereafter, it was disclosed to the mother of the victim and on 09.10.20221, the mother of the victim gave the complaint to the respondent police. The learned counsel for the petitioner further submitted that the doctor P.W.3 Dr.Yamuna Devi, has deposed before the Court that she had not found any injury upon the victim and the hymen is not intact and there is no report of pregnancy. He further contended that the petitioner is in custody from 20.01.2023 and the petitioner has every chance to succeed in



this Criminal appeal. Therefore, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. Heard the learned counsel for the petitioner and learned Government Advocate [Criminal Side] and perused the complaint, FIR and evidence of the witnesses and other material evidence available on record.

6. On the complaint given by the mother of the victim, a case has been registered against the petitioner/accused by the respondent police in Crime No.21 of 2021 for the offences under section 5[1] read with 6 of POCSO Act. A perusal of the records, it is seen that the allegation is that the victim and the accused had love affair and on 26.07.2021, the accused had sexual intercourse with her and subsequently, they had sexual intercourse and after two months, her date postponed and on 09.10.2022, the mother of the victim gave a complaint to the respondent police. Further, it is noticed that the doctor P.W.3 Dr.Yamuna Devi, has deposed before this Court that there is no injury upon the victim and the hymen is not intact and there is no report of pregnancy. Considering the facts and circumstances of the case and that the petitioner is in custody from 20.01.2023, 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:

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(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.

23.06.2023

VRC



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To

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1. The Sessions Judge,
Fast Track Mahila Court, Tiruppur.
2. The Inspector of Police, W.17, All Women Police Station
Tiruppur North, Tiruppur District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Coimbatore.



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V.SIVAGNANAM, J.

VRC

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