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CrI.MP.No.13195/2022 in CrI.A.No.955/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.05.2023

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

and

THE HONOURABLE MR. JUSTICE C.SARAVANAN

CrI.M.P.No.13195/2022

in

CrI.A.No.955/2022

Vinoth

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station
Jayamkondam, Ariyalur District.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 and 439 of Cr.P.C., to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge cum Fast Track Mahila Court, Ariyalur, Ariyalur District made in SC.No.45/2020 by the judgment dated 08.08.2022 and enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.K.Balu

For Respondent : Mr.R.Muniyappa Raj
Additional Public Prosecutor



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ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The above Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence pursuant to the judgment passed by the learned Additional District and Sessions Judge cum Fast Track Mahila Court, Ariyalur, Ariyalur District in SC.No.45/2020 dated 08.08.2020.

2. The conviction and sentence imposed against the petitioner is as follows:-

<i>Under Section</i>	<i>Sentence</i>
376[2][n] IPC	To undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/- in default to undergo 3 years simple imprisonment.
417 IPC	One year rigorous imprisonment with a fine of Rs.1,000/- in default to undergo one month simple imprisonment.

3. Learned counsel for the petitioner submitted that the petitioner and PW1 are adults and they were aware of the consequence. He would submit that even as per the evidence of the victim/PW1, she had admitted that there was a love affair between her and the petitioner for a long time and she has also stated that on coming to know of their affair, the parents of PW1 had requested the petitioner's parents to perform the marriage and the parents



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of the petitioner have stated that there was a prohibited relationship between them and thereby the marriage cannot be solemnised. However, learned counsel would submit that absolutely there is no material to show that the petitioner had refused to marry PW1/victim. Learned counsel further submitted that it is not a case where the petitioner had induced the victim/PW1 with a promise to marry her only to satisfy his lust. He further submitted that the petitioner is under incarceration from 08.08.2020. He also submitted that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner has got a fair chance of succeeding in the Criminal Appeal and hence, he prayed that the sentence imposed against the petitioner may be suspended.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that the prosecution has proved the case beyond reasonable doubts and the trial Court on finding the petitioner guilty, convicted him as stated above. Therefore, he vehemently oppose for grant of suspension of sentence.



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5. Heard the learned counsel for the petitioner and learned Additional Public Prosecutor appearing for the respondent and perused the materials on record.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the relief of suspension of sentence is granted on the following conditions:

- i. The petitioner shall execute bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge cum Fast Track Mahila Court, Ariyalur, Ariyalur District;
- ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders pending appeal.



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7. Accordingly, these Criminal Miscellaneous Petition is ordered.

[ADJCJ] [CSNJ]
04.05.2023

AP

To

1. The Additional District and Sessions Judge
cum Fast Track Mahila Court, Ariyalur, Ariyalur District
2. The Inspector of Police,
All Women Police Station
Jayamkondam, Ariyalur District.
3. The Public Prosecutor,
High Court of Madras.
4. The Central Prison, Trichy.



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A.D.JAGADISH CHANDIRA, J.
and
C.SARAVANAN, J.,

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