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CrI.M.P.No.426 of 2023 in CrI.A.No.39 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.M.P.No.426 of 2023

in

CrI.A.No.39 of 2023

C. Maheswaran

... Petitioner

/vs/

State, represented by
The Inspector of Police,
Salem Junction Railway Police
Station, Salem District.
Crime No.211 of 2018

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389 (2) of Cr.P.C., to suspend the sentence imposed against the petitioner in S.C.No.264 of 2019 in Crime No.211 of 2018 passed by the Principal Sessions Judge, POCSO Court, Salem, dated 31.10.2022 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner ... Mr. M.K. Bhoopathy Rajan

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

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in S.C.No.264 of 2019, dated



31.10.2022, by the Principal Sessions Judge, POCSO Court, Salem.

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2. The trial court, by its judgment dated 31.10.2022, convicted and sentenced the petitioner/accused as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.509 IPC	To undergo SI for 3 years and to pay a fine of Rs.1000/-, in default in payment of fine, to undergo additional SI for 6 months
		Not found guilty under section 7 r/w.Sec.8 of the Protection of Children from Sexual Offences Act, 2012 and acquitted from the above said charge
The period of imprisonment already undergone by the accused is ordered to be set off u/s.428 Cr.P.C.		

3. Challenging the above conviction and sentence, 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 submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. 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 the learned counsel appearing for the petitioner and the learned Govt. Advocate (crl.side) appearing for the respondent and perused the materials 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 shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, 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.

12.01.2023

msr

To

- 1.The Principal Sessions Judge, POCSO Court, Salem.
2. The Inspector of Police,
Salem Junction Railway Police
Station, Salem District.
3. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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