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Crl.M.P.No.406 of 2023 in Crl.A.No.37 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.406 of 2023

in

Crl.A.No.37 of 2023

Santhanakumar

... Petitioner

/vs/

The State by
Inspector of Police,
All Woman Polic Station,
Pennagaram,
Dharmapuri District
Crime No.09 of 2016

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w.439 of Cr.P.C., to suspend the sentence of imprisonment imposed in the judgment dated 19.07.2022 made in Spl.S.C.No.12 of 2017 on the file of the Fast Track Mahila Court, Dharmapuri and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

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

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment imposed in the judgment dated



19.07.2022 made in Spl.S.C.No.12 of 2017 on the file of the Fast Track

Mahila Court, Dharmapuri 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.12 of 2017 is convicted and sentenced by the trial court, by its judgment dated 19.07.2022 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.6 of POCSO Act, 2012	To undergo 10 years RI and a fine of Rs.10,000/-, in default in payment of fine, to undergo SI for a further period of 6 months.
	U/s.3(1)(w)(i) of SC/ST (Prevention of Atrocities) Act, 2015	To undergo 3 years SI and to pay a fine of Rs.5000/-, in default in payment of fine, to undergo 3 months SI
		The total fine amount of Rs.15,000/- was ordered to be paid to the victim girl after the appeal period is over.
The sentence of imprisonments imposed on the petitioner were ordered to run concurrently		

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.12 of 2017, 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 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 Petition.

5. Perused the the evidence of victim girl and the eye witness PW2. 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.

6. 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,



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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 Sessions Judge, Fast Track Mahila Court, Dharmapuri
2. Inspector of Police, All Woman Police Station,
Pennagaram, Dharmapuri.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison,
Vellore.

V.SIVAGNANAM, J.



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