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Crl.M.P.No.1039 of 2023 in Crl.A.No.87 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.1039 of 2023
in Crl.A.No.87 of 2023

Thanga @ Thangaraj

... Petitioner

/versus/

The Inspector of Police,
D1. Ramanathapuram Police Station,
Coimbatore.
Coimbatore District.
(Crime No.1522 of 2020)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Section 389 (1) & 439 of Cr.P.C., to suspend the sentence of imprisonment dated 25.11.2022 passed in S.C.No.19 of 2021 by the Sessions Court, Mahila Court/Additional Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore, and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner

... Mr.C.D.Sugumar

For Respondent

... Mr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER



This Criminal Miscellaneous Petition has been preferred seeking to suspend the judgment of conviction and sentence passed by the Sessions Court, Mahila Court, Additional Special Court for Exclusive Trial of case under POCSO Act, Coimbatore in S.C.No.19 of 2021, dated 25.11.2022 and to enlarge the petitioner/appellant on bail pending criminal appeal

2. The petitioner, who is the accused in S.C.No.19 of 2021, was convicted and sentenced by the Sessions Court, Mahila Court/Additional Special Court for Exclusive Trial of case under POCSO Act, Coimbatore, which reads as follows:

<i>Petitioner Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole Accused	Under Section 304-II of I.P.C	To undergo R.I imprisonment for a period of three years and to pay fine of Rs.5000/- , in default, to undergo S.I for three months.

The period already undergone by the accused was ordered to be set off.

3. Aggrieved against the judgment of conviction and sentence imposed on the petitioner, he preferred the present criminal appeal case along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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4. Heard the learned counsel appearing for the petitioner and the learned Govt. Advocate (Crl.side) appearing for the State.

5. 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; there are arguable points in this appeal and the petitioner has every chance of succeeding the appeal. He further submitted that the petitioner has already paid the fine imposed by the trial Court. Thus, he prayed for suspension of sentence, till the disposal of this Criminal Appeal.

6. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner has been confined in the judicial custody from the date judgment. 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 execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties, each for a likesum to the satisfaction of the Sessions Court, Mahila Court/Additional Special Court for Exclusive Trial of case under POCSO Act, Coimbatore.
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond 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.

30.01.2023

bsm

Index :Yes/No.

Internet: Yes/No.

To

- 1.The Sessions Court, Mahila Court/Additional Special Court for Exclusive Trial of case under POCSO Act, Coimbatore,
2. The Central Prison, Coimbatore.
3. The Inspector of Police, D1. Ramanathapuram Police Station, Coimbatore. Coimbatore District.
- 4.The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.

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