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Crl.M.P.No.2147 of 2023 in Crl.A.No.149 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.2147 of 2023

in

Crl.A.No.149 of 2023

Muruganantham

... Petitioner

/vs/

The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai-40
crime No.5 of 2020
Respondent

..

Prayer : Criminal Miscellaneous Petition filed under section 374 r/w.section 389 (1) of Cr.P.C., to suspend the sentence passed in S.C.No.285 of 2021 on the file of Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai 600 003, dated 13.10.2022 and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner

... Mr. Saikrishna

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.285 of 2021 on the



file of Sessions Judge, Mahalir Neethimandram, Allikulam, Chennai 600 003,
dated 13.10.2022 and enlarge the petitioner on bail pending disposal of the
criminal appeal.

2. The trial court, by its judgment dated 13.10.2022, 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.450 IPC	To undergo RI for seven years and to pay a fine of Rs.5000/-, in default in payment of fine, to undergo SI for two months;
	U/s.376 (i) IPC	To undergo RI for ten years and to pay a fine of Rs.5000/- , in default in payment of fine, to undergo SI for three months.
The sentences of imprisonments were ordered to run concurrently		

3. Aggrieved over the judgment of conviction and sentence imposed on
the petitioner in S.C.No.285 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 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 the evidence of Doctors viz., PW6-Dr.Muralidharan and PW7-Dr.Nithya and medical report Ex.P.7 are not enough to conclude that the accused committed rape on the victim since they did not support the case of prosecution. Further, there are more contradictions among the prosecution witnesses and there are arguable points in this appeal and the petitioner has every chance to succeed in this appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

5.The learned Govt. Advocate (crl.side) objected to grant suspension of sentence by stating that the petitioner has committed rape on the victim.

6. 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.

7. Perusal of records would reveal the fact that as per the prosecution case, on 21.08.2020, at about 12 p.m., when the victim was sleeping inside her house along with her children, the accused entered into her house and



attempted to commit rape on her, however, the evidence of PW6 and PW7, who examined the victim, did not say anything about the commission of rape on her. 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 a view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. 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, 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;



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(iii) The petitioner shall appear before the trial Court as and when required.

14.02.2023

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To

1. The Sessions Judge, Mahalir Neethimandram,
Allikulam, Chennai 600 003
2. The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai-40.
3. The Superintendent of Prison,
Puzhal Jail, Chennai.
4. The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.



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