



CRL MP(MD) No.8823 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Wednesday, the Twelfth day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K.RAMAKRISHNAN

CRL MP(MD) No.8823 of 2023
IN
CRL.A(MD) No.463 of 2023

SAHAYA BENJAMIN
Vs

... APPELLANT/2nd ACCUSED

1 THE INSPECTOR OF POLICE
DINDIGUL TOWN NORTH POLICE STATION,
DINDIGUL.
CRIME NO.766/2019

2 XXXXXXXXXXXXX
D/o.XXXXXXXXXXX,
XXXXXXXXXXXXXXXX,
MADURAI DISTRICT.

NOW RESIDING AT
XXXXXXXXXXXXX
D/o.XXXXXXXXXXX,
XXXXXXXXXXXXX,
DINDIGUL DISTRICT.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of sentence passed in Special S.C No. 98/2021 dt 11.04.2023 on the file of the Sessions Judge of Mahila Fast Track Court, Dindigul and grant bail to petitioner / appellant pending disposal of the criminal appeal.

PRAYER IN CRL.A(MD).463/2023:

Pleaded to take the appeal on the file of this Hon`ble Court, Call for the records

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from the Sessions Court of Fast Track Mahila Court, Dindigul dated 11-04-2023 in Special S.C.No.98/2021 and set aside the conviction by allowing this appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.SARAVANAN R, Advocate for the petitioner and of on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.98 of 2021, dated 11.04.2023, on the file of the Sessions Judge of Mahila Fast Track Court, Dindigul, and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the victim girl is a minor. On 08.11.2019, the petitioner took custody of the victim upon making false promise that he would marry her. Thereafter, he taken her to a poultry at Ayyampalayam Village and committed the aggravated penetrative sexual assault upon her. In result, she become pregnant and gave birth to a female child.

3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.766 of 2019 for the offences under Sections 363 of IPC and 5 (i), 5(j)(ii) and 6 of Protection of Child from Sexual Offences Act, 2012.



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4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 363 of IPC and 5(1)(j)(ii) and 6 of Protection of Child from Sexual Offences Act, 2012.

5. During the trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.9 and exhibited 20 documents as Ex.P.1 to Ex.P.20, whereas, the accused has adduced neither oral nor documentary evidence.

6. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 11.04.2023 and convicting the petitioner/accused for the offences under Sections 363 of IPC and 5(1)(j)(ii) and 6 of Protection of Child from Sexual Offences Act, 2012. He was sentenced to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default to undergo 6 months Simple Imprisonment for the offence under Section 363 of IPC and he was sentenced to undergo 20 years Rigorous Imprisonment and to pay a fine of Rs.3,000/- in default, to undergo 6 months Simple Imprisonment for the offence under Section 5(1)(j)(ii) and 6 of Protection of Child from Sexual Offences Act, 2012. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above



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Miscellaneous Petition seeking suspension of sentence.

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7. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner is in custody from the date of conviction and sentence passed by the learned Trial Judge. He would further submit that after the said occurrence, he got married the victim girl and she also gave birth of another female child. Now, the victim girl is living in the matrimonial home namely, the mother of the petitioner. Hence, he seeks suspension of sentence.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. Considering the facts that at the age of 17 ½ years, the victim girl went along



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with the appellant and jointly lived with the appellant for a period of 1 year and gave a birth of child and taken into account of the petitioner married the victim girl after attainment of majority and she is living with the parents house of the petitioner and gave another birth of child and the appellant's mother and family members also continuously giving proper care to the victim girl as well as her children and also considering the period of incarceration, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a 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 Sessions Judge of Mahila Fast Track Court, Dindigul;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and



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(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
12/07/2023

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/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS
TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
DINDIGUL TOWN NORTH POLICE STATION,
DINDIGUL.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 cc to Mr.R.SARAVANAN, Advocate, SR.No.10674 Dt.13.07.2023

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ORDER
IN
CRL MP(MD) No.8823 of 2023
IN
CRL.A(MD) No.463 of 2023
Date :12/07/2023

SA/VR/SAR. /12.07.2023/7P/6C
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