



CrI.M.P.No.1019 of 2024 in CrI.A.No.100 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.M.P.No.1019 of 2024  
in CrI.A.No.100 of 2024

Jayaraj,  
S/o.Subramaniyan

... Petitioner

Vs.

State rep. by Inspector of Police,  
All Women Police Station,  
Tiruppur South,  
Tiruppur District.  
Crime No.13 of 2021.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(i) of Code of Criminal Procedure, to suspend the sentence and enlarge the petitioner on bail imposed in Special S.C.No.10 of 2022 on the file of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur dated 21.12.2023 pending disposal of the above Criminal Appeal.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Dr.C.E.Pratap,  
Government Advocate (CrI. Side)



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### ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in Special S.C.No.10 of 2022, dated 21.12.2023 by the learned Sessions Judge, Magaleer Neethimandram (Fast Track Mahila Court), Tiruppur and to enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution is that on 07.03.2021, when the victim girl, who was aged about 14 years, was playing hide and seek, she went inside the bathroom for hiding herself; that the petitioner is said to have committed the penetrative sexual assault and thereafter continued to commit the penetrative sexual assault; that four months later, when the victim girl has suffered from stomach pain, the mother of the victim girl (PW2) took her to the hospital and found that she was pregnant; and that on the complaint given by PW2, a case was registered against the petitioner.



3.The petitioner was convicted for offence under Section 5(l) r/w 6 of the Protection of Children from Sexual Offence Act, 2012 and the petitioner was sentenced to undergo twenty years Rigorous Imprisonment and to pay a fine of Rs.2,500/- in default of payment of fine to undergo rigorous imprisonment for three months *vide* judgment, dated 21.12.2023 made in Special S.C.No.10 of 2022.

4.Heard Mr.C.S.Saravanan, learned counsel for the petitioner and Dr.C.E.Pratap, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel for the petitioner would submit that the petitioner, who is a neighbour to the victim girl, has been falsely implicated in this case; that the victim girl had not disclosed the fact to anybody; that the DNA report ruled out the paternity of the petitioner; and that the victim girl had also given a complaint against her paternal uncle for the offence of penetrative sexual assault and a case is pending in Special S.C.No.86 of 2024 before the learned Sessions Judge, Magaleer Neethimandram (Fast



Track Mahila Court), Tiruppur. He would further submit that the petitioner is in custody from 21.12.2023; and that he prayed for suspension of sentence.

6.The learned Government Advocate (Crl. Side) *per contra* would submit that though the DNA report had opined that the petitioner is not the biological father of the foetus, the evidence of the victim girl and other evidence on record had established the involvement of the petitioner; that therefore the prosecution had proved its case beyond reasonable doubt; and that the petitioner had not made out any ground for suspension of sentence.

7.Taking into consideration the submissions made by the learned counsel for the petitioner that another case in Special S.C.No.86 of 2024 is pending before the learned Sessions Judge, Magaleer Neethimandram (Fast Track Mahila Court), Tiruppur on the complaint given by the victim girl against her paternal uncle; that the result of the DNA report which is in favour of the petitioner; that there are several arguable points in the above revision; and that the petitioner is in custody from 21.12.2023, this Court is



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inclined to grant the relief of suspension of sentence.

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8. Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Magaleer Neethimandram (Fast Track Mahila Court), Tiruppur;

(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 Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and



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(iii)The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

22.11.2024

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To

- 1.The Sessions Judge,  
Magaleer Neethimandram (Fast Track Mahila Court),  
Tiruppur.
- 2.The All Women Police Station,  
Tiruppur South,  
Tiruppur District.
- 3.The Central Prison,  
Coimbatore.
- 4.The Public Prosecutor,  
Madras High Court.



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SUNDER MOHAN, J.

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