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CRL.M.P.No.7404 of 2024
in CRL.A.No.499 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.M.P.No.7404 of 2024

in

CRL.A.No.499 of 2024

Kavitha

... Petitioner

Vs.

State represented by,
The Inspector of Police,
F-2, Egmore Police Station,
Chennai - 8.
(Crime No.275/2015)

... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Section 389(1) of Criminal Procedure Code, pleaded to suspend the sentence imposed in S.C.No.227 of 2021 by the Judgement dated 22.04.2024 passed by the Learned XXI Additional City Civil Court at Allikulam, Chennai and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner

: Mr.R.Vivekananthar

For Respondent

: Mr.Raja Kumar



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Additional Public Prosecutor
ORDER

[Order of the Court was made by **V.SIVAGNANAM, J.**]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner in S.C.No.227 of 2021 by the Judgement dated 22.04.2024 passed by the Learned XXI Additional City Civil Court at Allikulam, Chennai and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing on behalf of the respondent and perused the materials on record.

3. The petitioner in the above Sessions Case, was convicted and sentenced for the offences under Section 302 read with 34 Indian Penal Code (IPC) and was sentenced to undergo rigorous imprisonment for life as per Section 235(2) and the period already undergone by the accused in jail was ordered to be set off on per Section 428 of Criminal Procedure Code.



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4. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and she seeks suspension of sentence in the present petition.

5. The learned counsel for the petitioner would submit that the alleged eye witnesses produced by the prosecution turned hostile and supported the case of the prosecution before the Trial Court. Therefore, the petitioner instituted the present petition to suspend the sentence.

6. However, the prosecution relied on the witnesses of P.W.1 to P.W.4, who were also not supported the case of prosecution. The Investigating Officer alone deposed in favour of the prosecution and this being the *prima facie* materials available on record, we are inclined to grant suspension of sentence.

7. Considering the above facts and circumstances, we are of the opinion that the petitioner could establish *prima facie* case and also considering the fact that the petitioner is in long incarceration and the appeal is not likely to be taken up in the near future, we are inclined to grant the



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relief of suspension of sentence to the petitioner herein.

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8. Accordingly, this Criminal Miscellaneous Petition stands allowed and the sentence of imprisonment is suspended and the sentence imposed on the petitioner is suspended on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned XIV Metropolitan Magistrate, Egmore, Chennai.
- (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
- (iii) The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal.

[S.M.S., J.] [V.S.G., J.]
02.09.2024

Jeni
Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No



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To
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- 1.The XIV Metropolitan Magistrate,
Egmore, Chennai.
- 2.The Superintendent of Prison,
Central Prison for Women,
Puzhal, Chennai.
- 3.The Inspector of Police,
F-2, Egmore Police Station,
Chennai - 8.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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S.M.SUBRAMANIAM, J.
and
V.SIVAGNANAM, J.

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