



Crl.M.P.No.10749 of 2024 in Crl.A.No.840 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **31.07.2024**

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

Crl.M.P.No.10749 of 2024

in

Crl.A.No.840 of 2024

Nagaraj

... Petitioner

Vs.

State represented by
The Inspector of Police,
Bangalapudur Police Station,
Erode District.
(Crime No.298 of 2022)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 389(1) of Criminal Procedure Code, praying to suspend the sentence and enlarge the petitioner on bail imposed in Special Sessions Case No.28 of 2023 dated 03.11.2023 on the file of Sessions Judge, Magalir Needhimandram, (Fast Track Mahila Court), Erode pending disposal of the above Criminal Appeal No.840 of 2024.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mrs.G.V.Kasthuri

Additional Public Prosecutor



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ORDER

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This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed by the learned Sessions Judge, Magalir Neethi Mandram, , (Fast Track Mahila Court), Erode vide judgment dated 03.11.2023 made in Special Sessions Case No.28 of 2023 and enlarge him on bail.

2. The petitioner/appellant was convicted for the offence u/s 9(m) punishable u/s 10 of the Protection of Children from sexual offences Act, 2012 and was sentenced to undergo rigorous imprisonment of 5 years with a fine of Rs.3,000/-, in default to pay the fine amount, was sentenced to undergo simple imprisonment for a further period of 2 months, vide judgment dated 03.11.2023 made in Special Sessions Case No.28 of 2023 by the learned Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court), Erode. Aggrieved by the same, the petitioner has filed the above appeal along with this petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner submitted that the FIR was registered on 14.08.2022, whereas the alleged occurrence was on



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11.08.2022, thereby there is a delay of 3 days, for which, there is no proper reasons by the prosecution. He also submitted based on the complaint given by the mother of the victim, the petitioner was implicated in the present case. He further submitted that there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. Further, he submitted that the petitioner is in jail for about nine months and now, he is confined in Central Prison, Coimbatore. Accordingly, he prays for suspension of sentence.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that on 11.08.2022 at about 05.30 p.m., the victim was returning home after playing at her grandfather's house, at that time, the petitioner called her, hugged, kissed her and touched her private parts by inserting his hand inside her dress, thereby he committed the alleged offence. Hence, she opposed for grant of suspension of sentence.

5. Having regard to the fact that there are arguable points involved in the criminal appeal and further, the appeal is not likely to be taken up for



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final hearing in the near future and also considering the fact that though P.W.2/Nandhini, who is the eye-witness to occurrence has informed the mother of the victim about the alleged occurrence on the date of occurrence itself i.e., on 11.08.2022, however, the FIR was registered on 14.08.2022, for which there is no proper reason by the prosecution and also considering the period of incarceration, I am of the considered opinion that the petitioner is entitled for the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that 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, Magalir Neethi Mandram, (Fast Track Mahila Court), Erode, and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal. Further, the petitioner shall also appear before the respondent police at 10.30 a.m. on every Monday, pending appeal.



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7. Further, it is made clear that, if the petitioner indulges in similar offence in the future, the suspension of substantive sentence alone granted today will automatically stand dismissed without any further reference to this Court.

8. This Criminal Miscellaneous Petition is ordered accordingly.

9. Post the main criminal appeal in Crl.A.No.840 of 2024 as per seriatum.

31.07.2024

sp

To

- 1.The Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court), Erode.
- 2.The Inspector of Police, Bangalapudur Police Station, Erode District.
- 3.The Superintendent, Central Prison, Coimbatore.
- 4.The Public Prosecutor, High Court of Madras, Chennai.



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M.DHANDAPANI, J.

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