



Crl.M.P.No.9846 of 2024
in Crl.A.No.1020 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.No.9846 of 2024
in
Crl.A.No.1020 of 2023

Sharuk Basha

... Petitioner

Vs.

1. State Rep. by the Deputy Superintendent of Police,
Uthangarai Sub Division,
Uthangarai Police Station,
Krishnagiri District.

2. The Inspector of Police,
Uthangarai Police Station,
Krishnagiri District.
(Crime No.517 of 2017)

3. Magalingam

... Respondents

Prayer : Criminal Miscellaneous Petition filed under Sections 389(2) and 439 of Criminal Procedure Code, praying to suspend the sentence imposed against the petitioner in Spl.S.C.No.50 of 2018 on the file of the learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District dated 15.03.2023 and enlarge the petitioner on bail pending disposal of the criminal appeal.



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For Petitioner : Mr.E.Kannadasan

For Respondents : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER

This miscellaneous petition is filed to suspend the sentence imposed against the petitioner in Spl.S.C.No.50 of 2018 on the file of the learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District dated 15.03.2023 and enlarge the petitioner on bail pending disposal of the criminal appeal.

2. Petitioner was convicted for the offence under Section 366 of IPC and was sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months simple imprisonment and further convicted for the offence punishable under Section 5(i) r/w.6 of Protection of Children from Sexual Offence Act, 2012 and was sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo one year simple imprisonment and further convicted for the offence punishable under Section 3(2)(v) of SC/ST Act, 2015 and was sentenced to undergo ten



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years rigorous imprisonment and to pay a fine of Rs.4,000/-, in default to undergo one year simple imprisonment vide order dated 15.03.2023 in Spl.S.C.No.50 of 2018. Aggrieved by the same, the petitioner preferred an appeal along with this petition seeking suspension of sentence.

3. Learned counsel for the petitioner submitted that, the petitioner and the victim girl loved each other. He further submitted that, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable and petitioner is now confined in Central Prison, Vellore for more than one year. He further submits that the petitioner is ready to abide any condition imposed by this Court. Accordingly, he prayed for appropriate orders.

4. Heard the submissions of the learned Additional Public Prosecutor appearing for the respondent.

5. On a perusal of the statement recorded by the victim girl u/s.164(5) it reveals that the victim and the petitioner loved each other and having regard to the fact that there are arguable points involved in the



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criminal appeal. Further, the appeal is not likely to be taken up for final hearing in the near future 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, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District and on further condition that the petitioner shall appear before the trial Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal.

8. This criminal miscellaneous petition is ordered accordingly.

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Index: Yes/No
Speaking Order / Non-speaking order
NCC: Yes/No



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To

1. The Sessions Judge, Fast Track Magalir
Neethimandram, Krishnagiri, Krishnagiri District
2. Central Prison, Vellore..
3. The Deputy Superintendent of Police,
Uthangarai Sub Division,
Uthangarai Police Station,
Krishnagiri District.
4. The Inspector of Police,
Uthangarai Police Station,
Krishnagiri District.
5. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.

M.DHANDAPANI,J.

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