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*Crl.M.P.No.13474 of 2023*  
*in Crl.A.No.667 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**Crl.M.P.No.13474 of 2023**

**in**

**Crl.A.No.667 of 2023**

Shanmugam

...

Petitioner /Accused

Vs.

State represented by  
Inspector of Police,  
All Women Police Station,  
Coimbatore.  
(Crime No.3 of 2019)

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C. praying to suspend the sentence imposed in Sessions Case No.187 of 2019 dated 26.10.2022 by the Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore and enlarge the petitioner on bail, pending disposal of main Criminal Appeal.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Dr.C.E Pratap,  
Govt. Advocate (Crl.side)



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## **ORDER**

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in Sessions Case No.187 of 2019 dated 26.10.2022 by the Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore and enlarge the petitioner on bail, pending disposal of main Criminal Appeal.

2. The case of the prosecution is that the petitioner is the father of the victim girl, that the victim girl was aged about 19 years at the time of occurrence; that on 02/03.04.2019, when the victim girl was sleeping alongwith other family members in her house, the petitioner, under the pretext of covering the victim with a blanket, gagged her mouth and had sexual intercourse multiple times on the same day; that the victim thereafter became pregnant and a case was registered for the offence under Section 376 (2)(f), 376 (2)(n) and 506(i) IPC.

3. The petitioner/accused in S.C.No.187 of 2019 was convicted by the Trial Court by judgment dated 26.10.2022 for the offence under Section



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376(2) (f) IPC and sentenced to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs.500/-, in case of default, to undergo Simple Imprisonment for three months; for the offence under Section 376(2) (n) IPC, sentenced to undergo Rigorous Imprisonment for ten years and to pay a fine of Rs.500/-, in case of default, to undergo Simple Imprisonment for three months, for the offence under Section 506(i) IPC sentenced to undergo Rigorous Imprisonment for one year. Aggrieved by the same, the petitioner/accused filed Crl.A.No.667 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the first version of the victim given to the doctor was that her lover one Saravana kumar was responsible for the pregnancy and that the victim had given a contrary version in her deposition as well as in the statement given under Section 164 Cr.P.C. as regards the time of occurrence; that the prosecution version is improbable; that the documents Exs.D1 to D9 produced on the side of the petitioner would show that the victim had an affair with another person and the petitioner had lodged a complaint against the victim and the other person and aggrieved by the action of the petitioner, he has been falsely



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implicated in this case. The learned counsel further submitted that the petitioner is in custody from 26.10.2022.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) appearing for the respondent and perused the records.

6. Taking into consideration, the submissions made by the learned counsel for the petitioner and finding force in the submissions, the period of incarceration of the petitioner; the fact that the appeal is not likely to be taken up in the near future, this court is inclined grant the relief of suspension of sentence to the petitioner.

7. 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/-, with two sureties, each for a like sum to the satisfaction of the learned the Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore ;



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- (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 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.

**25.11.2024**

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**Issue order copy by 28.11.2024**  
**Upload the order copy forthwith.**



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**SUNDER MOHAN, J.**

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To

1.The Sessions Judge,  
Magalir Neethimandram  
(Mahila Court),  
Coimbatore.

2. The Superintendent,  
Central Prison,  
Coimbatore

3.The Inspector of Police,  
All Women Police Station,  
Coimbatore.

4.The Public Prosecutor,  
High Court, Madras.

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