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Crl.M.P.No.10298 of 2024 in Crl.A.No.506 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.07.2024**

CORAM:

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

Crl.M.P.No.10298 of 2024

in

Crl.A.No.506 of 2024

Mayil @ Sathish

... Petitioner

Vs.

The State rep by The Inspector of Police,
Kottapatti Police Station,
Dharmapuri District.
(Crime No.231 of 2017)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 389(1) r/w 439 of Criminal Procedure Code, praying to suspend the sentence imposed against the petitioner in Spl.S.C.No.22 of 2023 on the file of the learned Special Court to deal with cases related to POCSO Act, Dharmapuri, Dharmapuri District dated 30.01.2024 and enlarge the petitioner on bail, pending disposal of the said Crl.A.No.506 of 2024 on the file of this court.

For Petitioner : Mr.E.Kannadasan

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



Crl.M.P.No.10298 of 2024 in Crl.A.No.506 of 2024

ORDER

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This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed against the petitioner by the learned Special Court to deal with cases related to POCSO Act, Dharmapuri vide judgment dated 30.01.2024 made in Special Sessions Case No.22 of 2023 and enlarge him on bail.

2. The petitioner/appellant was convicted for the offence u/s 363 of IPC and was sentenced to undergo rigorous imprisonment of 3 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 and the petitioner was convicted for the offence u/s 366 of IPC and was sentenced to undergo rigorous imprisonment of 5 years with a fine of Rs.5,000/-, in default to pay the fine amount, was sentenced to undergo simple imprisonment for a further period of 3 months and further, the petitioner was also convicted for the offence u/s 5(l) r/w 6 of The Protection of Children's from Sexual Offences Act, 2012 and was sentenced to undergo rigorous imprisonment of 10 years with a fine of Rs.10,000/-, in default to pay the fine amount, was sentenced to undergo simple imprisonment for a further period of 6 months, vide judgment dated 30.01.2024 made in Special Sessions Case No.22 of 2023 by the learned



Crl.M.P.No.10298 of 2024 in Crl.A.No.506 of 2024

Special Court to deal with cases related to POCSO Act, Dharmapuri.

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 petitioner and the victim girl loved each other and their marriage was performed on 20.11.2017, however, the father of the victim girl has lodged a girl missing complaint before the law enforcing agency. Based on the said complaint, the petitioner was implicated in the present case. Further, he submitted that there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. He further submitted that the petitioner was in jail for more than six months and he is now confined in Central Prison, Vellore. Accordingly, he prays for suspension of sentence.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that, as per the statement recorded u/s 164(5) of Cr.P.C., the petitioner had kidnapped the victim girl and married her and both the petitioner as well as the victim girl stayed in a rental house at Tiruppur for a period of 34



Crl.M.P.No.10298 of 2024 in Crl.A.No.506 of 2024

days and the petitioner had sexual intercourse with the victim girl daily. 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 final hearing in the near future and also considering the fact that there was a love affair between the petitioner and the victim girl 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 Special Court to deal with cases related to POCSO Act, Dharmapuri 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.



Crl.M.P.No.10298 of 2024 in Crl.A.No.506 of 2024

WEB COPY

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.506 of 2024 as per seriatum.

23.07.2024

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Crl.M.P.No.10298 of 2024 in Crl.A.No.506 of 2024

M.DHANDAPANI, J.

sp

To

- 1.The Special Court to deal with cases related to POCSO Act, Dharmapuri.
- 2.The The Inspector of Police, Kottapatti Police Station, Dharmapuri District.
- 3.The Superintendent, Central Prison, Vellore.
- 4.The Public Prosecutor, High Court of Madras.

Crl.M.P.No.10298 of 2024
in
Crl.A.No.506 of 2024

23.07.2024