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Crl.M.P.No.12734 of 2024 in Crl.A.No.894 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.12734 of 2024

in

Crl.A.No.894 of 2024

P.Prabhu
S/o.Pillaiyar

... Petitioner

Vs.

State represented by
The Inspector of Police
All Woman Police Station
Arakkonam, Vellore District
Crime No.13 of 2021.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(i) Cr.P.C., / 430(i) BNSS, praying to suspend the sentence imposed on the petitioner in Spl.S.C.No.44 of 2022 judgment dated 26.04.2024 on the file of Special Judge for Exclusive Trial of Cases under POCSO Act, Vellore and enlarge the petitioner on bail pending disposal of Crl.A.No.894 of 2024.

For Petitioner : Mr.S.Mannarsamy

For Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)



one roof. The petitioner's further contention is that it is common in their social group to have such a relationship. He further submitted that victim has not complained about the incident to her mother or anybody till the confirmation of her pregnancy. The petitioner and the victim are hailing from marginally deprived community and they have knowingly involved in such relationship and now the petitioner is in confinement. The victim and the female baby are suffering without any support. The victim girl/P.W.2 had filed an affidavit along with this appeal, confirming the relationship and living with the petitioner's family. Likewise P.W.1, the mother of the victim girl also filed an affidavit and has stated that she has no objection that the victim is to continue to live with the petitioner.

3. Learned Government Advocate (Crl.Side) appearing for the respondent strongly opposed the contentions of the petitioner, stating that due to COVID-19 period, the victim girl/P.W.2 was living in the petitioner's house and taking advantage of the victim's helplessness and dependency, the petitioner had committed penetrative sexual assault on her and thereafter, continued their relationship. The act of the petitioner came to the knowledge of both the family members, when the victim girl got pregnant. Since the



petitioner and victim families are not well-educated, they have not disclosed and complained or objected about the relationship, when the victim girl was admitted in the hospital at that time, it came to light that she was minor and knowledge about her relationship came out and a case was registered by the respondent/Police in Crime No. 13 of 2021. The investigating officer went to scene of occurrence, examined the witnesses, recorded their statements, produced the collected materials and laid a final report. He further submitted that during trial, PW1 to PW12 were examined and Exs.P1 to P14 were marked. Ex.P10-DNA report confirms that the petitioner is the biological father of the female baby. The petitioner has not only had physical relationship with the minor girl, but also prohibited relationship. Now the petitioner has annexed the affidavits of the victim and the de-facto complainant along with the appeal, wherein they have stated that the victim and the baby are residing with the petitioner's family and the petitioner is the only bread winner in his family and hence, set aside the conviction and sentence of the petitioner.

4. Considering the submissions made on either side and on a perusal of the materials on record, it is seen that the victim and the petitioner both come from marginally deprived community, more over they are not well educated



and in their community such relationship has no serious objection and victim now attained majority. It is seen that both the victim and child both are still residing along with the petitioner's family. Since the petitioner is the only bread winner, the entire family is suffering due to confinement of the petitioner.

5. In view of the above facts and circumstances, the substantive sentence of imprisonment imposed on the petitioner alone is suspended till the disposal of the above appeal and he is ordered 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 trial Court.

6. Further, petitioner shall appear before the Trial Court on the first working day, once in three months at 10.30 a.m. until the disposal of the Criminal Appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317



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Cr.P.C. and shall appear before the Trial Court on any other day in the same month, in lieu of the date of his absence as directed by the Trial Court.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.

22.10.2024

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To

- 1.The Sessions Judge,
Special Court for Exclusive trial of Cases
under POCSO Act, Vellore.
2. The Superintendent,
Central Prison, Vellore.
- 3.The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police
All Woman Police Station
Arakkonam, Vellore District.



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M.NIRMAL KUMAR, J.

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