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Crl.M.P.No.13261 of 2024 in Crl.A.No.1191 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13261 of 2024
in Crl.A.No.1191 of 2024

Prabakaran

... Petitioner /Sole Accused

Vs.

The State Rep. by
The Inspector of Police,
Arni All Women Police Station,
Thiruvannamalai District
(Crime No.9 of 2019)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C., to suspend the execution of sentence imposed on the petitioner /Appellant by an order of the learned Session Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Thiruvannamalai in S.C.No.108 of 2020 dated 29.08.2024 pending disposal of the above Criminal Appeal.

For Petitioner : Mr.E.Sathyaraj

For Respondent : Dr.C.E.Pratap

Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by judgment and order dated 29.08.2024 passed in S.C.No.108 of 2020 on the file of the learned Sessions Judge, Magalir Neethimandram, (FTMC),



Thiruvannamalai, and to enlarge the petitioner on bail pending disposal of the appeal.

2. It is the case of the prosecution that the petitioner and the victim girl belonged to the same village; that on 22.01.2019, when the victim was standing near her house, the accused came there and took her to the teak grove and made a false promise of marriage, obtained her consent and had sexual intercourse with her.

3. The petitioner, was convicted for the offence under Section 417 of IPC and sentenced to undergo 1 year Rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for three months; and Section 376(2) (n) of IPC and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for two years; and Section 506(1) of IPC and sentenced to under 1 year Rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo Simple imprisonment for three months and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and Sentenced to undergo 1 year Rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo simple



imprisonment for three months.

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4. Heard Mr.E.Sathyaraj, learned counsel for the petitioner and Dr.C.E.Pratap, learned Government Advocate (Crl.Side) appearing for the respondent/State.

5. The learned counsel appearing for the petitioner would submit that admittedly the petitioner and the victim girl had a love affair and that the marriage between the petitioner and the victim girl could not be solemnized, since PW2 the father of the victim did not agree for the same and that the petitioner had not made any false promise.

6. The learned Government Advocate (Crl. Side) *per contra* vehemently opposed this petition and submitted that the judgment of the Trial Court is in accordance with law and there is no ground to interfere with the sentence imposed against the petitioner by the Trial Court and hence, prayed for dismissal of this petition.

7. On perusing the evidence on record and especially, the evidence of the victim girl, this Court finds that the petitioner and the



victim girl had loved each other for about six years before the complaint.

The question as to whether the victim girl had given consent for sexual relationship because of false promise of marriage has to be examined in the Appeal.

8. Therefore, considering the above facts, the period of incarceration and the fact that the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9. 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 Session Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Thiruvannamalai
- (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.

07.11.2024

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Issue order copy by 11.11.2024
Upload the order copy forthwith.

To

- 1.The Sessions Judge,
Magalir Neethimandram, (FTMC),
Thiruvannamali
2. The State Rep. by
The Inspector of Police,
Arni All Women Police Station,
Thiruvannamalai District
3. The Superintendent of Prisons,
Central Prison, Vellore
- 4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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