



*CrI.M.P.No.13462 of 2024
in CrI.A.No.1214 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.M.P.No.13462 of 2024

in

CrI.A.No.1214 of 2024

Anbarasan

...

Petitioner /A.1

Vs.

The State Rep.by
The Inspector of Police,
All Women Police Station,
Nagapattinam

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430 of BNSS / 389 (1) of Cr.P.C. praying to suspend the execution of conviction and sentence imposed against the petitioner / accused in S.C.No.144 of 2018 dated 30.08.2024 by the learned Sessions Judge (Fast Track Mahila Court), Nagapattinam and enlarge him on bail, pending disposal of the above criminal appeal.

For Petitioner : Mr.K.Madhan

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



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*Crl.M.P.No.13462 of 2024
in Crl.A.No.1214 of 2024*

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the execution of conviction and sentence imposed against the petitioner / accused in S.C.No.144 of 2018 dated 30.08.2024 by the learned Sessions Judge (Fast Track Mahila Court), Nagapattinam and enlarge him on bail, pending disposal of the above criminal appeal.

2. The case of the prosecution is that the petitioner and the victim had love affair for about eight years prior to the complaint and that they had consensual relationship based on the false promise made by the petitioner to the defacto complainant and that when she requested the petitioner to marry her, he had refused to do so.

3. The petitioner/accused in S.C.No.144 of 2018 was convicted by the Trial Court by judgment dated 30.08.2024 under Section 417, 376 IPC and was sentenced to undergo rigorous imprisonment for 1 year and to pay a fine of Rs.10,000/- in default of payment of fine thereof, to undergo further period of one year simple imprisonment for offence u/s 417 IPC and 7 years rigorous



*Crl.M.P.No.13462 of 2024
in Crl.A.No.1214 of 2024*

imprisonment and fine of Rs.10,000/- in default of payment of fine, simple imprisonment for three months for the offence under Section 376 IPC. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1214 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that admittedly the petitioner and the defacto complainant were in a consensual relationship for about eight years and therefore the allegation of false promise of marriage and rape have been invented for the purpose of prosecution and there are arguable points in the appeal which would show that neither the offence of cheating nor the offence of rape would be made out and prayed for granting suspension of sentence.

5. The learned Government Advocate (crl.side) appearing for the respondent, per contra, would submit that the prosecution had established its case beyond reasonable doubt and on instruction would submit that the victim has married another person.



*Crl.M.P.No.13462 of 2024
in Crl.A.No.1214 of 2024*

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

7. It is not dispute that the petitioner and the victim had a consensual relationship for about eight years. In view of the long period of relationship, it has to be assessed as to whether the offence under Section 376 of IPC or offence under Section 417 of IPC has been made out ,during the final hearing of the appeal. The petitioner has raised substantial ground in the above appeal.

8. Considering the above submission made by the learned counsel for the petitioner, the fact that the petitioner is in custody from 30.08.2024 and 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:



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*Crl.M.P.No.13462 of 2024
in Crl.A.No.1214 of 2024*

- (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 Sessions Judge (Fast Track Mahila Court), Nagapattinam
- (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.

13.11.2024

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Issue order copy by 18.11.2024
Upload the order copy forthwith.



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*Crl.M.P.No.13462 of 2024
in Crl.A.No.1214 of 2024*

SUNDER MOHAN, J.

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To

1.The Sessions Judge (Fast Track Mahila Court),
Nagapattinam

2. The Superintendent,
Central Prison,
Cuddalore.

3.The Inspector of Police,
All Women Police Station,
Nagapattinam District.

4.The Public Prosecutor,
High Court, Madras.

Crl.M.P.No.13462 of 2024
in Crl.A.No.1214 of 2024

13.11.2024