



Crl.MP.No.16238 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2024

CORAM:

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

Crl.MP.No.16238 of 2023

in

Crl.A.No.1090 of 2023

Vinothkumar

...Petitioner

Vs.

1. The State by the,  
Deputy Superintendent of Police,  
Hosur Sub Division,  
Krishnagiri District.
2. The Inspector of Police,  
All Women Police Station,  
Hosur, Krishnagiri District.  
(Crime No.14 of 2020)
3. Dhakshnamoorthy

...Respondents

Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 of Cr.P.C. to suspend the sentence imposed against the petitioner in Spl.S.C.No.70 of 2020 on the file of the learned Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, Krishnagiri District dated 11.08.2023 and enlarge the petitioner on bail pending disposal of the said Crl.A.No.1090 of 2023 on the file of this Hon'ble Court.



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For Petitioner : Mr.E.Kannadasan

For Respondents : Mrs.G.V.Kasthuri,  
Addl. Public Prosecutor

### **ORDER**

This Criminal Miscellaneous petition has been filed under Section 389(1) of Cr.P.C to suspend the sentence of imprisonment imposed on the petitioner in Spl.S.C.No.70 of 2020 on the file of the Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri, vide judgment dated 11.08.2023 and to consequently enlarge the petitioner on bail.

2. The petitioner/appellant was convicted for the offence under Section 366 of IPC and Sections 5(1) r/w 6(1) of POCSO Act 2012 and in respect of the conviction under Section 366 of IPC, the petitioner was sentenced to undergo 5 years of rigorous imprisonment and was ordered to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo simple imprisonment for a further period of six months, and in respect of the conviction under Section 5(1) r/w 6(1) of POCSO Act 2012, the petitioner was sentenced to undergo 20 years of rigorous imprisonment and was ordered to pay a fine of Rs.1,000/- and in default of payment of fine, to

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undergo simple imprisonment for a further period of one year, vide order dated 11.08.2023 made in Spl.S.C.No.70 of 2020. Aggrieved by the same, the above appeal has been filed along with this petition seeking suspension of sentence.

3. Learned counsel for the petitioner submitted that, the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that, the victim girl on her own volition eloped with the petitioner. Further, the petitioner and his family members are ready to perform the marriage of the petitioner and the victim girl and also filed an undertaking affidavit to that effect before this Court today. Further, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable and that the petitioner is now confined in Central Prison, Vellore for about one year. Accordingly, he prayed for appropriate orders.

4. Learned Additional Public Prosecutor appearing for the 1<sup>st</sup> and 2<sup>nd</sup> respondents submitted that she interacted with the victim girl and her family



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members and they are not willing to perform the marriage in between the petitioner and the victim girl.

5. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration, I am of the considered opinion that the petitioner/appellant 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 Sessions Judge, Fast Track Magalir Neethimandram, Krishnagiri and on further condition that the petitioner shall appear before the respondent police on every Monday at 10.30 a.m., pending appeal.

7. Further, the petitioner is directed not to interact with the victim girl and if any complaint is registered against the petitioner in future, the



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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.

**18.07.2024**

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**Note to office:** Issue order copy on 18.07.2024.

To:

1. The Sessions Judge, Fast Track Magalir Neethimandram,  
Krishnagiri.
2. The Public Prosecutor,  
Madras High Court.
3. The Deputy Superintendent of Police,  
Hosur Sub Division,  
Krishnagiri District.
4. The Inspector of Police,  
All Women Police Station,  
Hosur, Krishnagiri District.
5. The Central Prison, Vellore.

**M.DHANDAPANI, J.**

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in  
Crl.A.No.1090 of 2023

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