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Crl.M.P.No.17495 of 2023
in Crl.A.No.1240 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17495 of 2023
in Crl.A.No.1240 of 2023

Gokulakannan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
All Women Police Station,
Udumalaipettai,
Tiruppur District.
(Crime No.07 of 2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Mahalir Needhimandram (Fast Track Mahila Court), Tiruppur in Spl.S.C.No.57 of 2022 dated 26.04.2023 and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner : Mr.M.Vignesh

For Respondent : Dr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

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This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in the judgment, dated 26.04.2023 in Spl.S.C.No.57 of 2022 passed by the learned Sessions Judge, Mahalir Needhimandram (Fast Track Mahila Court), Tiruppur.

2.It is the case of the prosecution that the victim is closely related to the petitioner and the petitioner is the younger brother of the victim's mother; that the petitioner and the victim developed love affair; that when the mother/defacto complainant went to work; on the promise of marriage, the petitioner had sexual intercourse with the victim. It is the further case of the prosecution that the victim did not reveal about the occurrence for nearly six months and only when the victim complained of stomach ache and taken to the hospital, the defacto complainant realised that the petitioner had committed penetrative sexual assault and on the complaint, a case was registered against the petitioner.



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3.The petitioner was convicted and sentenced to undergo twenty years years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo one year rigorous imprisonment for the offence under Sections 5(1)(i)(ii)(n) r/w. 6(1) of Protection of Children from Sexual Offences Act (POCSO Act).

4.The learned counsel appearing for the petitioner would submit that even according to the prosecution, the petitioner and the victim are closely related to each other; that there was a love affair between the petitioner and the victim; that the petitioner is now in custody for nearly about 18 months and admittedly, the petitioner was a juvenile aged about 17 years at the time of occurrence and therefore, prayed for suspension of sentence.

5.The learned Government Advocate (Crl. Side), per contra, submitted that the prosecution had established the case beyond reasonable doubt as the evidence of victim and P.W.1 are cogent and convincing and there is no reason to interfere with the judgment of the Trial Court.



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6. Admittedly the petitioner was aged about 17 years at the time of occurrence and is the maternal uncle of the victim and there was a love affair between the petitioner and the victim. Even if the prosecution case is accepted to be true which the petitioner denies, it appears to be a case of biological attraction between two teenagers due to mutual innocence. Since the petitioner is in custody from 26.04.2023 and there are arguable points in the above appeal which requires consideration, this Court is inclined to grant the relief of suspension of sentence.

7. Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner, is suspended till the disposal of the criminal appeal and he 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/- (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Tiruppur;

(ii) The petitioner and the sureties shall affix their photographs and



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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;

(iii)The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m until further orders 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.

02.12.2024

cse



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To

- 1.The Sessions Judge,
Mahalir Needhimandram
(Fast Track Mahila Court),
Tiruppur.
- 2.The Inspector of Police,
All Women Police Station,
Udumalaipettai,
Tiruppur District.
- 3.The Superintendent,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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