



Crl.MP.No.97/2024 in Crl.A.No.26/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.08.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

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Murukan

.. Appellant/Sole Accused

Versus

The State represented by
The Inspector of Police,
AWPS-Udumalpet Police Station,
Tiruppur.
Crime No.3 of 2018.

.. Respondent

Prayer:-Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence of imprisonment imposed on the petitioner/appellant in S.C.No.6 of 2019 on the learned Sessions Judge, Magalir Neethimandram, (FTMC), Tiruppur, dated 22.06.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.D. Anantha Padmanabhan



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For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

[Order of the Court is made by S.M.SUBRAMANIAM, J.]

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner vide judgement dated 22.06.2022 in S.C.No.6 of 2019 by the Sessions Judge, Magalir Neethimandram, (FTMC), Tiruppur and enlarge the petitioner on bail, pending disposal of the appeal.

2. The trial Court, by a judgment dated 22.06.2022, convicted the petitioner/sole accused and sentenced him as under:

Conviction under Section	Sentence
450 of IPC	Rigorous imprisonment for ten years and to pay a fine of Rs.1,000/-, in default, to undergo Simple imprisonment for three months.
376(2)(1) Act 2012	Imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo Simple



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Conviction under Section	Sentence
	imprisonment for three months.

3. Challenging the above said conviction and sentence, the present appeal has been filed along with this petition for suspension of sentence.

4. The learned Counsel appearing on behalf of the petitioner would submit that the petitioner has not involved in the offence and therefore, the conviction and sentence imposed on the petitioner is untenable. Further, the learned counsel relied on the evidence of P.W.3 and contended that the petitioner has not committed any such offence as alleged. He further submitted that there are arguable points in this Criminal Appeal and the petitioner has every chance to succeed in this Appeal, thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

5. The learned Additional Public Prosecutor appearing for the respondent opposed to grant suspension of sentence by stating that the victim girl is mentally ill-girl and the petitioner has involved in the offence.



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His involvement has been deposed by P.W.1/victim girl and also by P.W.2, father of the victim girl. Thus, the petition is to be rejected.

6. We have carefully gone through the evidence of P.W.1 victim girl and P.W.2 father of the victim girl and the medical evidence. The medical evidence reveals that there is no internal or external injuries identified and the victim girl was not pregnant. There is no indication about the sexual intercourse during the relevant point of time. A perusal of the medical evidence and the deposition of P.W.1 and P.W.2 are to be further elaborately considered during the course of hearing of the Appeal. However, we are satisfied that the case on hand deserves to be considered for grant of suspension of sentence.

7. Considering the facts and circumstances of the case and also the fact that there are arguable points involved in this appeal, we are inclined to grant suspension of sentence to the petitioner.

8. Accordingly, the relief of suspension of sentence is granted to the



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petitioner on the following conditions:

(i) 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.25,000/- (Rupees twenty five thousand only) along with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-I, Udumalpet.*

(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.

(iii) the petitioner shall appear before the **Sessions Judge, Magalir Neethimandram, (FTMC), Tiruppur** on the first working day of every month at 10.30 a.m. until the disposal of the appeal .

(iv) the petitioner is directed to shift his residence from the village, where the victim girl's family is residing and he should reside in any other far away area till such time during the pendency of the appeal.



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[S.M.S., J.] [R.S.V., J.]
19.08.2024

Internet: Yes
mrp



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**S.M.SUBRAMANIAM, J.
and
R.SAKTHIVEL, J.**

mrp

To

1. The Sessions Judge,
Magalir Neethimandram, (FTMC),
Tiruppur,
2. The Judicial Magistrate-I,
Udumalpet
- 2.The Inspector of Police,
AWPS-Udumalpet Police Station,
Tiruppur.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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