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CRL MP. 15769 of 2024 in
CRL A NO.1382 OF 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-12-2024

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL MP NO. 15769 of 2024

IN CRL.A.NO.1382 OF 2024

Vishnu Prasath
S/o.Anbazhagan, Thiruvannamalai Main Road,
Kedar Village, Villupuram Taluk And District.

Appellant(s)

Vs

The State By
The Deputy Superintendent Of Police, Gingee
Sub-division, Villupuram District.
Cr.No.202/2018. and another

Respondent(s)

For Appellant(s) : Mr.K. Balu
For 1st Respondent : Dr.C.E.Pratap,
Govt. Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Special Court for Exclusive trial of cases registered under SC/ST (PoA) Act cases, Villupuram, Villupuram District in Spl.S.C.No.15 of 2019 by its judgment dated 19.09.2024 and enlarge the petitioner on bail, pending disposal of the above appeal.

2. It is the case of the prosecution that the petitioner and the victim



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had a love affair and on the promise of marriage, the petitioner had sexual relationship with the defacto complainant when her parents were not in the house; that on 13.07.2018, the petitioner and the victim went to Palani temple and thereafter had sexual relationship continuously; that when the victim became pregnant and informed her parents, the parents requested the petitioner to marry the victim for which the petitioner is said to have refused and abused them in filthy language.

3. The petitioner/Accused in S.C.No.15 of 2019 was convicted by the Trial Court and sentenced to undergo one year Simple Imprisonment for the offence u/s 417 IPC; for the offence u/s 376 IPC, sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.2,00,000/-, in default to undergo rigorous imprisonment for one year. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1382 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the though the petitioner was charged for the offence under SC/ST Act, the trial court found that these offence were not proved and that the considering the fact that the relationship between the petitioner and the respondent was for a



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long period of two years, the question of deception would not arise and the consent was not obtained by coercion or false promise. Though the trial court had acquitted the petitioner for the offence under SC/ST Act, this court had ordered notice to the second respondent/defacto complainant. Although notice was served on the second respondent, none has entered appearance.

5. The learned Government Advocate(crl.side) per contra, would submit that the prosecution had established the offence of cheating and rape and therefore the petitioner has not made out any case for suspension of sentence. A Counter Affidavit has also been filed to that effect by the respondent.

7. Admittedly, the petitioner and the defacto complainant were in a love affair and were known to each other for more than two years. In view of the long relationship, it has to be examined in the above appeal as to whether the consent of the victim was obtained on the false promise of marriage or whether the consent was voluntary. The appeal is not likely to be taken up in the near future. The petitioner is in custody from 19.09.2024.



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8. Considering the fact that the petitioner has raised substantial grounds in the above appeal which requires consideration; that the petitioner is in custody from 19.09.2024 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:

- (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 Sessions Judge, Special Court for Exclusive trial of cases registered under SC/ST (PoA) Act cases, Villupuram, Villupuram District;
- (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



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(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.

19.12.2024

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Issue order copy by 21.12.2024
Upload the order copy forthwith.

To

1. The Sessions Judge,
Special Court for Exclusive trial of cases
for SC/ST (PoA) Act cases, Villupuram,
Villupuram District
2. The Deputy Superintendent Of Police,
Gingee Sub-division, Villupuram District.
3. The Superintendent
Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

rgt

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