

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM:

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

Crl.MP.No.18598 of 2023

in

Crl.A.No.1339 of 2023

P.Viknesh

...Petitioner

Vs.

The State rep. by,
The Inspector of Police,
Arachalur Police Station,
Erode District.
In Crime No.346/2018.

...Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed in judgment and conviction passed in Spl.SC.No.14 of 2021 dated 06.11.2023 on the file of the Learned Sessions Judge, Magalir Needhi Mandram, Fast Track Mahila Court, Erode and release the petitioner on bail pending criminal appeal.

For Petitioner : Mr.S.Bharanidharan

For Respondent : Mrs.G.V.Kasthuri,

Addl. Public Prosecutor

ORDER

This Criminal Miscellaneous petition has been filed seeking to suspend the sentence of imprisonment imposed in Spl.SC.No.14 of 2021 dated 06.11.2023 on the file of the Learned Sessions Judge, Magalir Needhi Mandram, Fast Track Mahila Court, Erode.

2. The petitioner was convicted for the offence under Section 363 of IPC and Section 5(1), 5(m) & 6 of the POCSO Act, 2012 and in respect of the conviction u/s 363 of IPC, the petitioner was sentenced to undergo three years of rigorous imprisonment and was ordered to pay a fine of Rs.3,000/- and in default to undergo simple imprisonment for a further period of three months and in respect of the conviction u/s 5(1), 5(m) & 6 of the POCSO Act, 2012 of IPC, the petitioner was sentenced to undergo twenty years of rigorous imprisonment and was ordered to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for a further period of three months, vide order dated 06.11.2023 made in Spl.SC.No.14 of 2021. 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 is innocent and he has not committed any offence as alleged by the prosecution and it is purely a love affair between the petitioner and the victim girl and the victim girl on her own volition eloped with the petitioner. Learned counsel further submitted that, subsequently, the victim girl got married to another person. He furthermore submitted that, 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, Coimbatore for about eight months.

4. On the above said contentions, heard learned Addl. Public Prosecutor appearing for the respondent and perused the materials available on record.

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 upon perusal of the statement of the

victim girl recorded under Section 164 Cr.P.C, as no serious allegation was made against the petitioner, I am of the considered opinion that the petitioner 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 Sessions Judge, Magalir Needhi Mandram, Fast Track Mahila Court, Erode and on further condition that the petitioner shall appear before the respondent police on every Monday at 10.30 a.m., pending appeal and the petitioner shall pay the entire fine amount as ordered by the trial court.

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 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.

25.07.2024

skt

Note to office: Issue order copy on 30.07.2024.

To

1. The Sessions Judge,
Magalir Needhi Mandram, Fast Track Mahila Court,
Erode.
2. The Central Prison,
Coimbatore.
3. The Inspector of Police,
Arachalur Police Station,
Erode District.
4. The Public Prosecutor,
High Court of Madras.

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M.DHANDAPANI, J.

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