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*Crl.M.P.No.19481 of 2023
in Crl.A.No.1535 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.19481 of 2023

in

Crl.A.No.1535 of 2023

Rasu @ Chitharasu

...

Petitioner /Sole Accused

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Erode, Erode District.
(Crime No.21 of 2018)

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(i) of Cr.P.C. praying to suspend the sentence and enlarge the petitioner on bail imposed in Special S.C.No.16 of 2019 dated 16.03.2022 passed by the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Erode, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Dr.C.E Pratap,
Govt. Advocate (Crl.side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in Special S.C.No.16 of 2019 dated 16.03.2022 by the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Erode and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. It is the case of the prosecution that the appellant and the victim are neighbours and that under the guise of teaching her to ride the vehicle, the appellant made her sit in front of the bike, hugged her and touched her breast.

3. The petitioner/accused in Spl.S.C.No.16 of 2019 was convicted by the Trial Court by judgment dated 16.03.2022 for the offence under Section 9(m) r/w Section 10 of POCSO Act and sentenced to undergo 7 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 3 months Simple Imprisonment. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1535 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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WEB COPY

4. The learned counsel for the petitioner would submit that the petitioner is in custody from 16.03.2022 and he was sentenced to undergo 7 years imprisonment; that there are arguable points in the above appeal; that though the complaint was for penetrative sexual assault, the trial court disbelieved the said version and convicted the petitioner for the offence under Section 9(m) r/w Section 10 of POCSO Act; that the evidence of the victim is contrary to the statement made under Section 164 of Cr.PC and that considering the period of incarceration, the sentence imposed on the petitioner may be suspended.

5. Heard the learned Government Advocate (crl.side) appearing for the respondent and perused the records.

6. Considering the submissions of the learned counsel for the petitioner; that the petitioner has raised substantial ground in the above appeal; that the petitioner is in custody from 16.03.2022 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.



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WEB COPY

10. 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, Magalir Neethimandram (Fast Track Mahila Court), Erode ;
- (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
- (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.

27.11.2024

rgr

Issue order copy by 28.11.2024
Upload the order copy forthwith.



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SUNDER MOHAN, J.

rgt

To

1.The Sessions Judge,
Magalir Neethimandram (Fast Track Mahila Court),
Erode, Erode District.

2. The Superintendent,
Central Prison,
Coimbatore.

3.The Inspector of Police,
All Women Police Station,
Erode, Erode District.

4.The Public Prosecutor,
High Court, Madras.

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