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Crl.M.P.No.19597 of 2023
in Crl.A.No.1571 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM:

**THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

Crl.M.P.No.19597 of 2023
in Crl.A.No.1571 of 2023

Gowtham

... Petitioner

Vs.

State by:-

The Inspector of Police,
Perumanallur Police Station,
Tiruppur District.
Crime No.602/2021

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence imposed by the trial Court in the judgment dated 18.10.2023 made in S.C.No.136 of 2021 on the file of the Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, and enlarge the petitioner on bail, pending disposal of the criminal appeal.

For Petitioner : Mr.P.M. Duraiswamy

For Respondent : Mr.E. Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind



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ORDER

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*(Order of the Court was delivered by **SUNDER MOHAN, J.**)*

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by the Magalir Neethimandram (Fast Track Mahila Court), Tiruppur on 18.10.2023 in S.C.No.136 of 2021 and enlarge him on bail, pending disposal of the Criminal Appeal.

2. The Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, in S.C.No.136 of 2021, has convicted the petitioner/accused and sentenced him as follows:-

	<i>Offence</i>	<i>Sentence imposed</i>
Accused	Sections 498(A)	3 years rigorous imprisonment with a fine of Rs.2,500/- in default to undergo 6 months rigorous imprisonment.
	307 IPC	Life imprisonment with a fine of Rs.5,000/- in default to undergo 6 months rigorous imprisonment

3. Challenging the above conviction and sentence, the petitioner/accused, has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.



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4. Heard Mr.P.M. Duraiswamy, learned counsel appearing for the petitioner and Mr.E. Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/Police.

5. The case of the prosecution is that the victim and the petitioner fell in love with each other and that they were living together in a rented house; that the petitioner tied thali and thereafter, the victim became pregnant; that on 13.07.2019 at about 12.00 pm, the petitioner compelled the victim to abort the fetus and when the victim refused for the same, the petitioner poured diesel on the victim and set fire on her; that the victim sustained 40% burn injuries on her chest, neck and legs.

6. The learned counsel for the petitioner submitted that the complaint in the instant case was lodged two years after the occurrence; that the victim was taken to the hospital by the petitioner and the evidence discloses that he made attempts to extinguish the fire; that initially, the victim had informed the doctor that she sustained burn injuries while she was cooking at home. Hence, the learned counsel submitted that the



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petitioner has a fair chance of success in the appeal and therefore, prayed for suspension of sentence.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent/Police submitted that though the complaint was belated, the victim has narrated the events in the cogent manner and there is no reason for interference and the Trial Court has rightly convicted the petitioner for the offence under Sections 498(A) and 307 of IPC.

8. We have perused the records carefully and considered the rival submissions.

9. Admittedly, the petitioner had taken the victim to the hospital. There is also evidence to show that the petitioner took efforts to extinguish the fire. The earliest version of the victim is recorded in the Accident Register by P.W.5. P.W.5 stated that the petitioner admitted the victim to the hospital and the victim informed her that she sustained burn injuries while cooking. P.W.5 further stated that there was a kerosene smell on the victim's body. However, the prosecution states that the petitioner poured



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diesel on the victim. Above all, the complaint was lodged nearly 2 years after the occurrence.

10. Considering the above facts, we are of the view that the petitioner has fair chances of success in the appeal and hence, we are inclined to suspend the sentence.

11. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence of imprisonment imposed on the petitioner is suspended on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Magalir Neethimandram (Fast Track Mahila Court), Tiruppur;
- (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;



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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., 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.

(M.S.R, J.)

(S.M, J.)

31.01.2024

Index: Yes/No

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Note: Issue Order Copy on 01.02.2024



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- To
- 1.The Judicial Magistrate,
Avinashi, Tiruppur District.
 - 2.The Magalir Neethimandram (Fast Track Mahila Court),
Tiruppur.
 - 3.The Inspector of Police,
Perumanallur Police Station,
Tiruppur District.
 - 4.The Superintendent,
Central Prison,
Coimbatore.
 - 5.The Public Prosecutor,
High Court,
Madras.



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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