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Crl.M.P.No.1795 of 2024
in
Crl.A.No.147 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9/12/2024

CO R A M

The HONOURABLE MR JUSTICE SUNDER MOHAN

CRL MP.No.1795 of 2024

in

CRL A.No.147 of 2024

Ramaraj

...

Petitioner

Vs

State

rep. The Inspector of Police

All Women Police Station

Udumalaipettai

Tiruppur District.

...

Respondent

Prayer: Petition filed under Section 389 (1) of the Code of Criminal Procedure to suspend the sentence passed in Spl.S.C.No.18 of 2021 on 20/4/2022 by the Magalir Neethimandram (Fast Track Mahila Court), Tirupur and enlarge the petitioner on bail pending disposal of the appeal.

For petitioner

...

Mr.Silambuselvan

For respondent

...

Dr.C.E.Pratap

Government Advocate

(Criminal Side)



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ORDER

This petition has been filed to suspend the sentence passed in Spl.S.C.No.18 of 2021 on 20/4/2022 by the Magalir Neethimandram (Fast Track Mahila Court), Tirupur and enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that victim and the petitioner were living in the same Village and got acquainted with each other; that the victim was aged about 16 years at the time of occurrence; that the petitioner was separated from his wife and that the petitioner took the victim on 4/12/2020 to the temple for marrying her and thereafter, had sexual intercourse with the victim and thus committed offence under Section 5 (1) r/w. 6 of POCSO Act, 2012.

3. The learned trial Judge convicted the petitioner for the offence under Section 5 (1) r/w. 6 of POCSO Act, 2012 and sentenced to undergo rigorous imprisonment for 20 years and shall pay a fine of Rs.10,000/- in default to undergo 1 year rigorous imprisonment.



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4. The learned counsel appearing for the petitioner would submit that the victim had lodged the complaint only on 28/12/2020 and that the victim had informed the Doctor that she had voluntarily gone with the petitioner; that the Doctor had noted that there was no recent evidence of sexual intercourse and that the petitioner is in custody from 20/4/2022 and prayed for suspension of sentence.

5. The learned Government Advocate (Criminal Side) submitted that prosecution had established its case beyond reasonable doubt and that even assuming that victim had given consent to the petitioner, it is not a valid consent and therefore, offence under Section 6 of the POCSO Act is made out.

6. Considering the fact that the Doctor had not found any evidence of recent sexual intercourse by the victim; that the victim had stated to the Doctor that she had gone along with the petitioner voluntarily; the period of incarceration; that the question as to whether the petitioner can be convicted



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on the sole testimony of the victim has to be examined in the appeal; and the fact that the appeal is not likely to be taken in near future, this Court is inclined to grant the relief of suspension of sentence.

7. Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner, is suspended till the disposal of the criminal appeal and he 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/- (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Magalir Neethimandram (Fast Track Mahila Court), Tirupur,

(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 until further orders 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.

9/12/2024

mvs.

To

1. The Magalir Neethimandram (Fast Track Mahila Court), Tirupur
2. The Inspector of Police
All Women Police Station
Udumalaipettai
3. The Superintendent, Coimbatore.
4. The Public Prosecutor
High Court of Madras
Chennai.



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SUNDER MOHAN,J

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