



Crl.M.P.(MD) No.1128 of 2024

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in

Crl.A(MD) No.89 of 2024

VIVEK KUMAR SINGH, J.

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.121 of 2023 dated 15.12.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.55 of 2021, on the file of the respondent/Inspector of Police, Dhadikombu Police Station, Dindigul District, for the offences punishable under Section 363 of IPC, Section 5(j)(ii) r/w. 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and the same was



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taken on file in Spl.S.C.No.121 of 2023 before the learned Sessions Judge, Fast Track Mahila Court, Dindigul. The petitioner was convicted and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with three months simple imprisonment in case of default for the offence under Section 363 of IPC and to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with six months simple imprisonment in case of default for the offence under Section 5(j)(ii) r/w. 6 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred this Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submits that both the victim and the petitioner loved each other and got married and thereafter, victim gave birth to a male child. He further submitted that the defacto complainant made a complaint against the petitioner



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since, they have not got his consent during the marriage. He further submitted that the petitioner also stated in the affidavit along with this petition that the victim girl was living happily with the petitioner prior to his conviction and due to this conviction, his wife and child finds difficult for their livelihood. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Additional Public Prosecutor appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials available on record.

6. Today, the victim girl appeared in person before this



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Court along with her child and stated that they have one male child out of their wedlock. She also filed an affidavit before this Court stating that she/victim married the petitioner/accused and both are lived together before his conviction. She further stated that due to the conviction of the petitioner, she finds it difficult for her livelihood, as no one supports her.

7. This Court finds force in the submission of the learned counsel for the petitioner. Admittedly, the petitioner and the victim girl loved each other and got married and begotten a male child and the victim is also willing to live with the petitioner. Hence, this Court *prima facie* feels that there are arguable points involved in this Criminal Appeal and further, the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.



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8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.121 of 2023 dated 17.10.2023 alone is suspended, subject to the following conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Dindigul;

ii) 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 to ensure their identity;

iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders;



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(iv) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Sessions Judge, Fast Track Mahila Court, Dindigul.

9. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

12.02.2024

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The Superintendent,
Central Prison,
Madurai.

Note:

1. Registry is directed to forthwith upload this order in the official website of this Court.
2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.



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