



CRL MP(MD) No.1462 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Nineteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.1462 of 2024

in

CRL A(MD)No. 895 of 2023

RAHIM @ KAMARDEEN

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THENI
THENI DISTRICT,
CRIME NO.13/2020

... RESPONDENT/RESPONDENT/COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence and enlarge the petitioner on bail imposed on the appellant by the judgment dated 05.08.2023 made in Spl.SC.No.60/2020 on the file of Fast Track Mahila Sessions Court, Theni

PRAYER IN CRL A(MD)No. 895 of 2023:

To call for the records relating to the judgment dated 05.08.2023 made in Spl.S.C.No. 60 of 2020 on the file of Fast Track Mahila Sessions Court, Theni and set aside the conviction and sentence imposed against the Appellant/accused and allow above appeal by acquitting the accused.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.1462 of 2024

MR.A.SHEIK ABDULLA, Advocate for M/S.MOHAMED ASLAM M U, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni, in Spl.S.C.No.60 of 2020 dated 05.08.2023 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 along with other accused in Crime No.13 of 2020, on the file of the respondent/Inspector of Police, All Women Police Station, Theni, Theni District, for the offences punishable under Section 9(m) r/w. 10 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 taken on file in Spl.S.C.No.60 of 2020 before the learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni. The petitioner was convicted and sentenced to undergo five years rigorous imprisonment for the offence under Section 9(m) r/w. 10 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the de

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.1462 of 2024

facto complainant/father of the victim was doing lottery business and he had credit transactions with the petitioner and the de facto complainant is liable to pay outstanding amount and hence, the petitioner stopped business transaction with the de facto complainant few months before the complaint. Hence, the de facto complainant lodged a false complaint against the petitioner. The petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in the case with an ulterior previous motive. At the time of occurrence, petitioner's wife / DW1 was also available in the home. He further submitted that the trial Court failed to note that the vital discrepancies made in the deposition of witnesses and also that the prosecution has miserably failed to prove the charges beyond reasonable doubts. The petitioner is in judicial custody from 05.08.2023 and 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. At the time of occurrence, the victim girl was a minor and hence, prays to dismiss the petition. The earlier application filed by the petitioner was dismissed by this Court

5. Heard the learned counsel appearing for the petitioner and the learned

Additional Public Prosecutor appearing for the State and perused the materials

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.1462 of 2024

available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner and hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 05.08.2023 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.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni, in Spl.S.C.No.60 of 2020, dated 05.08.2023, alone is suspended, subject to the following stringent 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 Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni;

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 and sign before the concerned Court



CRL MP(MD) No.1462 of 2024

WEB COPY

daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

(iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Additional District and Sessions Judge, Mahalir Neethi Mandram (FTC), Theni.

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

sd/-
19/03/2024

/ TRUE COPY /

25/03/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

TO

- 1 THE ADDITIONAL DISRICT AND
SESSIONS JUDGE, MAHALIR NEETHI MANDRAM(FTC)
THENI
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THENI
THENI DISTRICT,



CRL MP(MD) No.1462 of 2024

3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.SHEIK ABDULLA, Advocate (SR-3384[I] dated 19/03/2024)

ORDER
IN
CRL MP(MD) No.1462 of 2024
in
CRL A(MD)No. 895 of 2023
Date :19/03/2024

PKP/25.03.2024/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023