



CRL MP(MD) No.1901 of 2024

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

Friday, the Twenty Second day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.1901 of 2024

in

CRL A(MD) No.233 of 2023

M.PANDI

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
DINDIGUL
(CRIME NO.10/2020.)

... Respondent / Respondent

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed on him in respect of dated 18.11.2022 Spl.SC.No.15/2021 on the file of the Sessions Judge/Fast Track Mahila Court, Dindigul, pending above criminal appeal.

Prayer in CRL A(MD) No.233 of 2023:

To call for the records and set aside the conviction passed by the Sessions Judge, Fast Tracj Mahila Court, Dindigul in Spl.S.C.No.15 of 2021 dated 18.11.2022 and allow this appeal.

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



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of M/S.ELANGO H, 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 Sessions Judge, Fast Track Mahila Court, Dindigul District, in Spl.S.C.No.15 of 2021 dated 18.11.2022 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.10 of 2020 on the file of the respondent/Inspector of Police, All Women Police Station, Dindigul, for the offences punishable under Sections 5(1)(j)(ii) r/w. 6 of 'the Protection of Children from Sexual Offences Act, 2012 (No.32 of 2012)' [hereinafter 'POCSO Act' for the sake of convenience and clarity] and 9 of the Child Marriage Restraint Act, 1929 and the same was taken on file in Spl.C.C.No.15 of 2021 before the learned Sessions Judge, Fast Track Mahila Court, Dindigul. The petitioner was convicted and sentenced to undergo 25 years Rigorous Imprisonment and a fine of Rs.20,000/- (Rupees Twenty Thousand only) with six months Simple Imprisonment in case of default for the offence under Section 6 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.



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3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl loved each other and they also performed the marriage and that both were in consensual relationship. He further submitted that the age of the victim has not been conclusively proved by the prosecution. There is no evidence to prove the charges levelled against the petitioner. He further submitted that the father of the petitioner is a diabetic patient, who is hospitalized for the past three months and his brother also died on 23.07.2020 and the petitioner is the only son to look after his father. He also submitted that the petitioner is in judicial custody from 18.11.2022. 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. The victim girl is a orphan and was a minor at the time of occurrence. The petitioner got married twice and the victim is the third wife. He further submitted that the DNA test proved that the petitioner is the biological father of the victim's child 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



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available on record.

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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 18.11.2022 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 Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.15 of 2021 dated 18.11.2022 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 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 and sign before the concerned



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

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

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

sd/-
22/03/2024

/ TRUE COPY /

26/03/2024
Sub-Assistant Registrar
(C.S. I / II / III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

To

1.The Sessions Judge,
Fast Track Mahila Court,
Dindigul.

2.The Inspector of Police,
All Women Police Station,
Dindigul.

3.The Superintendent,
Central Prison,
Madurai.



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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.H.ELANGO, Advocate (SR-3580[I] dated 22/03/2024)

ORDER
IN
CRL MP(MD) No.1901 of 2024
in
CRL A(MD) No.233 of 2023
Date :22/03/2024

ED/ /SAR- (26/03/2024) 6P / 6C

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