



Crl.M.P.(MD) No.2423 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.M.P.(MD) No.2423 of 2024
in
Crl.A(MD) No.804 of 2022

SURESH

... PETITIONER/PETITIONER

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
ARIMALAM SUB DIVISION,
PUDUKOTTAI DISTRICT.

...RESPONDENT/COMPLAINANT

2 ELANJIYAM

...RESPONDENT/DEFACT COMPLAINANT

3 THE INSPECTOR OF POLICE
ARIMALAM POLICE STATION,
PUDUKOTTAI DISTRICT.
CRIME NO.23 OF 2021.

... 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 imposed by the Mahila Court,Pudukkottai in Spl.SC.No.7 of 2021 dt.14.10.2022 and enlarge the Petitioner on bail,pending disposal of the above Criminal Appeal.

PRAYER IN CRL.A(MD) No.804 of 2022:

To call for the records and set aside the judgement and sentence passed in Spl.S.C.No.7 of 2021 dated 14.10.2022 on the file of the Mahila Court, Pudukottai allow the appeal.



Crl.M.P.(MD) No.2423 of 2024

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 MR.A.ARUN PRASAD, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondents 1 & 3 and MR.C.SENTHIL MURUGAN, Advocate for the 2nd 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, Mahila Court, Pudukottai, in Spl.S.C.No.07 of 2021 dated 14.10.2022 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.23 of 2021 on the file of the respondent/Inspector of Police, Arimalam Police Station, Pudukkottai District, for the offences punishable under Section 3(1) (w) (i) of SC/ST (POA) Act and Section 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.07 of 2021 before the learned Sessions Judge, Mahila Court, Pudukkottai. The petitioner was convicted and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.40,000/- (Rupees Forty Thousand only) with



Crl.M.P.(MD) No.2423 of 2024

WEB COPY

one year rigorous imprisonment in case of default for the offence under Section 10 of POCSO Act and to undergo six months rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) with two weeks simple imprisonment in case of default for the offence under Section 3(1) (w) (i) of SC/ST (POA) 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.

3. The learned counsel appearing for the petitioner would submit that the prosecution has miserably failed to prove the case beyond reasonable doubts. He further submitted that there is a previous enmity between the petitioner and the father of the victim girl and therefore, due to that enmity, the above said false complaint has been given after lapse of six months. He further submitted that the trial Court failed to consider the fact that there is a civil dispute between the petitioner and the de facto complainant, for which, on 20.06.2020 a complaint has been given to the police and on 28.01.2021 there was a wordy quarrel between them. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Additional Public Prosecutor appearing for the

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



Crl.M.P.(MD) No.2423 of 2024

WEB COPY

respondents 1 and 2 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. He would further submit that the previous compliant was compromised between the parties and after compromise, there was no trouble between them and hence, prays to dismiss the petition. This is the second bail application. The earlier application filed by the petitioner was dismissed by this Court by passing an elaborate order and the present petition has been filed mainly on the ground that the petitioner was in judicial custody from 14.10.2022.

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

6. This Court finds force in the submission of the learned counsel for the petitioner. 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 14.10.2022 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.



Crl.M.P.(MD) No.2423 of 2024

WEB COPY

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Mahila Court, Pudukottai, in Spl.S.C.No.07 of 2021 dated 14.10.2022 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, Mahila Court, Pudukottai;

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 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 Sessions Judge, Mahila Court, Pudukottai.

v) The petitioner is directed to pay the fine amount immediately, as directed by the Court below, if any.



Crl.M.P.(MD) No.2423 of 2024

WEB COPY

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

sd/-
22/03/2024

/ TRUE COPY /

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

rm

TO

- 1 THE JUDGE,
MAHILA COURT, PUDUKKOTTAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
ARIMALAM SUB DIVISION,
PUDUKOTTAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
ARIMALAM POLICE STATION,
PUDUKOTTAI DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.ARUN PRASAD, Advocate (SR-3572[I] dated 22/03/2024)

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



WEB COPY



Crl.M.P.(MD) No.2423 of 2024

ORDER
IN
Crl.M.P.(MD) No.2423 of 2024
in
Crl.A(MD) No.804 of 2022
Date :22/03/2024

RK/ (25/03/2024) 7P / 7C

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