



CRL MP(MD) No.5988 of 2024

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

Wednesday, the Nineteenth day of June Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.5988 of 2024

in

CRL A(MD) No.68 of 2024

KALIMUTHU

... Petitioner / Petitioner /
Appellant / Sole Accused

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI,
DINDIGUL DISTRICT.
(CRIME NO.15/2020).

... Respondent / 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 modify the condition imposed by this Honble Court in Crl.MP(MD)No.716/2024 in Crl.A (MD)No.68/2024 dated 24/1/2024,modifying as the petitioner to execute two blood sureties with Aadhar Card , Bank Pass Book to the satisfaction of the Learned Judge, Mahila Fast Track Court, Dindigul instead of (i) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two bloos surities each for a like sum to the satisfaction of the learned Judge, Mahila Fast Track Court, Dindigul.

Prayer in CRL MP(MD) No.716 of 2024:

To suspend the sentence imposed on the petitioner/appellant/sole accused



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namely Kalimuthu, S/o.Palanisamy passed by the learned Mahila Fast Track Court, Dindigul in Spl.SC.No.63/2020 dated 05.04.2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

Prayer in CRL A(MD). 68/ 2024 :

To call for the records of the impugned judgment made in Spl.S.C.No.63 of 2020 on the file of the Learned Mahila Fast Track Court, Dindigul dated 05.04.2023 and set aside the same.

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 M/s.M.JEGADEESH PANDIAN, Advocate for the petitioner and of Mr.M.MUTHU MANIKKAM, Government Advocate (Crl. side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to modify the condition imposed by this Court in Crl.M.P.(MD).No.716 of 2024 in Crl.A.(MD).No.68 of 2024 dated 24.01.2024, modifying as “the petitioner to execute two blood sureties with Aadhaar Card and Bank Pass Book, to the satisfaction of the learned Judge, Mahila Fast Track Court, Dindigul, instead of (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 Judge, Mahila Fast Track Court, Dindigul”.

2.This Court by order dated 24.01.2024 in Crl.M.P.(MD).No.716 of 2024, has passed the following order:

The petitioner has filed this Criminal Miscellaneous



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Petition praying to suspend the sentence passed against him by the learned Judge, Mahila Fast Track Court, Dindigul, in Spl.S.C.No.63 of 2020 dated 05.04.2023 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.15 of 2020, on the file of the respondent/Inspector of Police, A.W.P.S. Palani, Dindigul District, for the offences punishable under Section 342 of IPC and Sections 9(k), 9(m) read with Section 10 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and that the same was taken on file in Spl.S.C.No.63 of 2020 before the learned Judge, Mahila Fast Track Court, Dindigul. The petitioner was convicted and sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- with two months simple imprisonment in case of default for the offence punishable under Section 342 of IPC. In respect of Section 10 of POCSO



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Act, the petitioner was convicted and sentenced to undergo 5 years rigorous imprisonment and to pay a fine of Rs.10,000/- with six months simple imprisonment in case of default. Challenging the above said conviction and sentence, the petitioner has preferred the present Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submits that the entire prosecution is completely depending upon the deposition of the sole victim and there are several contradictions in other evidences and witnesses and the same goes to the root of the matter. Moreover, during the trial, the victim has not supported the case of the prosecution and turned hostile and the findings of the Court below are based on conjectures and surmises. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner



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and hence, he strongly opposed to grant suspension of sentence. 5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner and this Court prima facie feels that 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.

7.Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Judge, Mahila Fast Track Court, Dindigul, in Spl.S.C.No.63 of 2020 dated 05.04.2023 alone is suspended, subject to the following stringent conditions:-

i)The petitioner shall execute a bond for a sum of



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Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Judge, Mahila Fast Track 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 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 ie., learned Judge, Mahila Fast Track Court, Dindigul.

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

3.The learned counsel for the petitioner would submit that the petitioner's blood relatives is living in a rental house and they are not having any property in their name. Due to which, he is unable to arrange sureties in their name. Hence, he seeks to modify the condition No.1.



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4.The learned Government Advocate (Criminal Side) would submit that he has no objection.

5.Considering the submissions made by the learned counsel for the petitioner, this Court is inclined to modify the condition and the petitioner shall execute sureties of his parents with original Aadhaar Card and Bank Pass Book each for like sum to the satisfaction of the learned Judge, Mahila Fast Track Court, Dindigul.

6.Accordingly, this Criminal Miscellaneous Petition is allowed. The other conditions shall stand remained unaltered.

sd/-
19/06/2024

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20/06/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG

To

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

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



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3.The Superintendent,
Central Prison, Madurai.

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

ORDER
IN
CRL MP(MD) No.5988 of 2024
in
CRL A(MD) No.68 of 2024
Date :19/06/2024

ED/ /SAR- (20/06/2024) 8P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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