



CRL MP(MD) No.11321 of 2023

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

Tuesday, the Thirtieth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.11321 of 2023

in

CRL A(MD)No.321 of 2023

AYYAR

... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI.

... 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 him on bail by suspending the sentence imposed on him by the Mahila Fast Track Court, Dindigul in Spl.Sc.No.74 of 2022 dated 09.03.2023, pending disposal of the above Criminal Appeal.

PRAYER in CRL A(MD)No.321 of 2023:

To call for records and set aside the Judgment made in Spl.S.c.No.74 of 2022 by the Mahila Fast Track Court, Dindigul dated 09.03.2023.

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.VENKATESH.D, Advocate for the petitioner and of Mr.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Judge, Mahila Fast Track Court, Dindigul, in Spl.S.C.No.74 of 2022 dated 09.03.2023 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.6 of 2022, on the file of the respondent/Inspector of Police, A.W.P.S. Palani, Dindigul District, for the offences punishable under Section 452 of IPC and Sections 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.74 of 2022 before the learned Judge, Mahila Fast Track Court, Dindigul. The petitioner was convicted and sentenced to undergo four years Rigorous Imprisonment and to pay a fine of Rs.10,000/- with six months simple imprisonment in case of default for the offence punishable under Section 452 of IPC. In respect of Section 10 of POCSO 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. The petitioner is directed to undergo the sentences concurrently. Challenging the above said conviction and



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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 the statement of the victim recorded under Section 164 of Cr.P.C. contradicts with the evidence given by her. Moreover, because of civil dispute prevailing between the families of the victim and the accused, the victim was tutored to lodge a false complaint. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed the submissions of the learned counsel for the petitioner stating that the victim girl was aged about ten years at the time of occurrence and the age of the accused was 48 years. He further submits that the trial Court is empowered to convict the accused based on the sole testimony of the victim girl 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.



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6. This Court finds force in the submission of the learned counsel for the petitioner and is of the opinion 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.74 of 2022 dated 09.03.2023 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 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.



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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.

sd/-
30/01/2024

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31/01/2024
Sub-Assistant Registrar()
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN

TO

- 1 THE JUDGE,
MAHILA FAST TRACK COURT, DINDIGUL.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.D.VENKATESH, Advocate (SR-1136[I] dated 30/01/2024)



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ORDER
IN
CRL MP(MD) No.11321 of 2023
in
CRL A(MD)No.321 of 2023
Date :30/01/2024

SS/SAR- /31/01/2024/6P/6C

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