



CRL MP(MD) No.13038 of 2023

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

Thursday, the Fifteenth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.13038 of 2023

and

CRL A(MD)No. 831 of 2023

SELVAM

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

**THE INSPECTOR OF POLICE
VILAMPATTI POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO.659/2020.**

... 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 on the petitioner by Learned Sessions Judge, Fast Track Mahila Court, Dindigul Spl.SC.No.49/2023 vide Judgement dt.1/8/2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

PRAYER IN CRL A(MD)No. 831 of 2023:

To call for the records and set aside the order of conviction and sentence passed in Spl.S.C.No. 49/2023 on the file of the Learned Sessions Judge, Fast Track Mahila Court, Dindigul vide judgment dated 01.08.2023 and allow this appeal and acquit the Appellant/ Accused from the charge leveled against him.

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>



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M/S.AZAGARSAMI.A.K, 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.49 of 2023 dated 01.08.2023 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 in Crime No.659 of 2020, on the file of the respondent/Inspector of Police, Vilampatti Police Station, Dindigul District, for the offences punishable under Sections 363 of IPC and Section 6 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.49 of 2023 before the learned Sessions Judge, Fast Track Mahila Court, Dindigul District. The petitioner was convicted and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.1,000/- with three months simple imprisonment in case of default for offence under Section 363 of IPC, to undergo 20 years rigorous imprisonment and to pay a fine of Rs.4,000/- with six months simple imprisonment in case of default for offence under Section 6 of POCSO Act. Challenging the above



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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 for the petitioner submitted that the trial Court failed to note that the victim girl herself admitted in 164 statement that she had love affair with the petitioner for which her parents arranged marriage for her with some other person, so she herself eloped with the petitioner. He further submitted that the age of victim girl has not been proved by the prosecution. He further submitted that at the time of occurrence, the petitioner was aged about 16 years and now 19 years and the petitioner and the victim are relatives. 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. He further submitted that the petitioner has got one previous case for the offence under Sections 147, 148, 341, 294(b), 302, 307 and 149 of IPC which is pending before the learned IV



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Additional Sessions Court, Madurai, in S.C.No.55 of 2022.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor 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. Admittedly, the victim eloped with the petitioner and had made physical relations with the victim girl. Based on the complaint lodged by the victim's grandmother, a case was registered and on 24.12.2020, the petitioner and the victim girl were secured. 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 01.08.2023 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 Sessions Judge, Fast Track Mahila Court, Dindigul District, in Spl.S.C.No.49 of 2023 dated 01.08.2023 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



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the learned Sessions Judge, Fast Track Mahila Court, Dindigul District;

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, Fast Track Mahila Court, Dindigul District.

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

sd/-
15/02/2024

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16/02/2024
Sub-Assistant Registrar (C.S.)
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
VILAMPATTI POLICE STATION, 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.13038 of 2023
and
CRL A(MD)No. 831 of 2023
Date :15/02/2024

PKP/16.02.2024/ 6P/ 5C

Madurai Bench of Madras High Court is issuing certified
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