



CRL MP(MD) No.11202 of 2024

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

Wednesday, the Twenty Third day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.11202 of 2024

in

CRL.A.(MD)No.856 of 2024

ANANTH KRISHNAN

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE,
MALLANGINARU POLICE STATION,
VIRUDHUNAGAR DISTRICT.

... 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 Spl.S.C.No.33/2022 by the Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur dt. 20.09.2024 pending disposal of the above Criminal Appeal.

Prayer in Crl.A(MD).856/2024:

Pleased to set aside the Judgment made in Spl.S.C.No.33 of 2022 by the Sessions Judge (Fast Track Mahila Court), Virudhunagar District @ Srivilliputhur dated 20.09.2024.

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.D.VENKATESH, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR,

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



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Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar, dated 20.09.2024 in Spl.S.C.No.33 of 2022 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The case of the prosecution is that defacto complainant is the father of the victim girl. He lodged the complaint stating that the accused is a divorcee. The victim was born on 09.10.2004. On 10.10.2021, the accused's parents came to his house to see the victim girl for marriage. But he refused for the marriage, since the victim girl was studying. On 12.10.2021, the victim went to the College as usual. But, even after night she did not return to the house. Enquiry reveals that this petitioner kidnaped the victim girl. They went to the petitioner's house and made enquiry. They revealed that the victim was kidnaped by the petitioner, forcibly taken to Ettaiyapuram and other areas and subjected her to sexual intercourse. After completing the investigation, final report was filed, charge sheeting the accused for the offences under sections 366 of IPC, Section 9 of Prohibition of Child Marriage Act and Section 5(1) r/w 6 of the POCSO Act.

3.The case was tried by the Sessions Judge, Fast Track Mahila Court,

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Virudhunagar, in Spl.S.C.No.33 of 2022. After committal process was over, the following charges were made under sections sections 366 of IPC, Section 9 of Prohibition of Child Marriage Act and Section 5(1) r/w 6 of the POCSO Act.

4.On the side of the prosecution, 9 witnesses were examined and 17 documents marked. On the side of the accused one witness was examined and one document was marked.

5.At the conclusion of the trial process, the trial court found the appellant guilty of the offence under section 366 IPC and convicted and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten thousand only) in default, he shall undergo rigorous imprisonment for a period of 1 year; also appellant found guilty for the offence under section 5(1) r/w 6 of the POCSO Act and convicted and sentenced to undergo 20 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-(Rupees Ten thousand only) in default, he shall undergo rigorous imprisonment for a period of one year and also appellant found guilty for the offence under section 9 of Prohibition of Child Marriage Act and convicted and sentenced to undergo 2 year Rigorous Imprisonment and to pay a fine of Rs.10,000/-(Rupees Ten thousand only) in default, he shall undergo rigorous imprisonment for a period of four months.

6.Against which, this appeal has been preferred by the appellant along with this



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petition seeking suspension of sentence.

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7.The learned counsel for the petitioner submitted that on the date of the alleged occurrence the victim girl was about 17+. Even as per own evidence, she voluntarily went along with the petitioner due to the love affair. When that was not liked by the parents the case has been registered.

8.Per contra, the learned Government Advocate (Crl. Side) would submit that the age of the victim girl was below major at the time of the alleged occurrence. Having known the above said fact, she was kidnapped to Ettaiyapuram, performed marriage and subjected to sexual intercourse.

9.Perusal of records shows that the victim girl was in affair with the petitioner for some times. On the alleged occurrence she was taken to various places on promise of marriage. Whether the age of the victim girl was brought to the notice of the petitioner is the matter for consideration at the time of appeal. On that sole ground without going into the other aspect, this Court is inclined to allow this petition.

10.In the result, Crl.M.P.(MD)No.11202 of 2024 in Crl.A(MD)No.856 of 2024 is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the



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Sessions Judge, Fast Track Mahila Court, Virudhunagar, and on further condition that he shall appear before the said Court once in a week at 10.30 am pending criminal appeal.

sd/-
23/10/2024

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/10/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TM
TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
MALLANGINARU POLICE STATION, VIRUDHUNAGAR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.D.VENKATESH, Advocate (SR-12972[I] dated 23/10/2024)

ORDER IN
CRL.M.P.(MD)No.11202 of 2024
in
CRL.A.(MD)No.856 of 2024
Date :23/10/2024

SA/SAR. /23.10.2024/5P/6C

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