



Crl.M.P.No.13674 of 2024 in Crl.A.No.394 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13674 of 2024
in Crl.A.No.394 of 2024

Raman

... Petitioner

Vs.

State Represented by
The Inspector of Police,
All Women Police Station,
Pennagaram,
Dharmapuri District.
(Crime No.11 of 2019)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) of Cr.P.C. and Section 430(1) of BNSS, to suspend the conviction and sentence imposed on the petitioner by judgment dated 29.09.2022 in Spl.S.C.No.27 of 2019 on the file of the Sessions Judge, Fast Track Mahila Court, Dharmapuri District and to release the petitioner on bail pending disposal of the above said Criminal Appeal.

For Petitioner	:	Mr.C.Prabakaran
For Respondent	:	Dr.C.E.Pratap, Government Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in Spl.S.C.No.27 of 2019, dated 29.09.2022 by the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri District and to enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution is that the victim was aged about 14 years at the time of occurrence and she was known to the petitioner; that on 13.08.2019 at about 08.00 p.m., the petitioner took the victim to his house, hugged her, fondled her breast and thereafter committed penetrative sexual assault.

3.The petitioner was convicted for the offence under Section 5(i) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.20,000/- in default of payment of fine to undergo Simple Imprisonment for six months *vide* judgment, dated 29.09.2022 made in Special S.C.No.27



of 2019.

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4.The learned counsel for the petitioner would submit that the prosecution case is false; that the victim had given a different version to the Doctor stating that a known person indulged in sexual intercourse for a period of one year; that there are several arguable points in the appeal which would show that the evidence of the victim cannot be believed and the conviction cannot be sustained on the sole testimony of the victim; and that the petitioner is in custody from 29.09.2022 which is more than two years and three months. He would further submit that the petitioner is aged about 65 years and is suffering from several health ailments; and that in fact he was admitted in the Jail Hospital for about two weeks for his back pain and stomach ache and prayed for suspension of sentence.

5.The learned Government Advocate (Crl. Side) on instructions confirms the fact that the petitioner was admitted in the Jail Hospital from 13.09.2024 to 25.09.2024.



6.It is seen that there are several arguable points in the appeal which requires consideration. The health condition of the petitioner is not disputed. The petitioner is in custody from 29.09.2022 for more than two years and three months. Further, this Court has to examine whether the conviction can be based on the sole testimony of the victim in the light of the contradictions pointed out by the learned counsel for the petitioner. The appeal is not likely to be taken in the near future. Hence, this Court is inclined to grant the relief of suspension of sentence.

7.Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions:

(i)The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri;

(ii)The petitioner and 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 and mobile numbers to ensure their identity; and

(iii)The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

09.01.2025

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To

- 1.The Sessions Judge,
Fast Track Mahila Court,
Dharmapuri District.
- 2.The Inspector of Police,
All Women Police Station,
Pennagaram,
Dharmapuri District.
- 3.The Central Prison,
Vellore.
- 4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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