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*Crl.M.P.No.17272 of 2024
in Crl.A.No.1523 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17272 of 2024
in
Crl.A.No.1523 of 2024

Ravichandran

... Petitioner /Accused

Vs.

State rep by
The Inspector of Police,
All Women Police Station,
Tiruvarur, Tiruvarur District.
(Crime No.3/2017)

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(2) of BNSS, praying to suspend the sentence made in Spl.S.C.No.01 of 2018, on the file of learned Sessions Court, Mahila Court (Fast Track), Tiruvarur, dated 12.08.2021 and enlarge the petitioner on bail.

For Petitioner : Mr.J.Jayan

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 imposed on the petitioner by the judgment dated 12.08.2021 passed in Spl.S.C.No.01 of 2018, by the learned Sessions Judge, Fast Track Mahila Court, Tiruvarur, pending disposal of the above criminal appeal and enlarge the petitioner on bail.

2.It is the case of the prosecution that the victim was aged 16 years at the time of occurrence; that she lost her mother when she was young; that her father married for second time; that thereafter, she stayed in Karunalaya home; that during her stay in the home, she used to go out with the petitioner; that the petitioner, who was aged 23 years at the time of occurrence, on the promise of marriage had sexual intercourse with the victim.

3. The petitioner/Accused in Spl.S.C.No.01 of 2018 was convicted by the Trial Court by the judgment dated 12.08.2021 for the offences under Sections 6 r/w. 5(l) of POCSO Act, 6 r/w 5(j)(2) of POCSO Act and 9 of Prohibition of Child Marriage Act and sentenced to undergo 10 years rigorous



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imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo rigorous imprisonment for one year for the offence under Section 6 r/w. 5(l) of POCSO Act, sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo rigorous imprisonment for one year for the offence under Section 6 r/w. 5(j)(2) of POCSO Act and for the offence under Section 9 of Prohibition of Child Marriage Act, sentenced to undergo 2 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo rigorous imprisonment for six months. Aggrieved by the same, he filed Crl.A.No.1523 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.The learned counsel for the petitioner would submit that PW2/The President of the Child Welfare Committee in his evidence had deposed that the victim had not stated that the petitioner was responsible for her pregnancy, whereas the victim had stated that she had told the Child Helpline that the petitioner was responsible for the pregnancy; that the prosecution had not conducted DNA test to confirm that the petitioner is the father of the child born to the victim; that the victim herself had stated in her evidence that the victim's father had sent the victim to the petitioner's house during a festival;



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that the petitioner has nothing to do with the alleged offences and the conviction, which is based on the sole testimony of the victim, has to be examined by this Court in the above appeal.

5.Heard the learned Government Advocate (Crl. Side) and perused the counter affidavit. The learned Government Advocate per contra submitted that since the victim's evidence is cogent and convincing; that though the DNA test was not conducted, the impugned judgment cannot be faulted; and that the petitioner has not made out any ground for suspension of sentence.

6.Admittedly, the complaint was lodged on 30.03.2017, while the alleged occurrence said to have been taken place on 14.08.2016. According to the learned counsel for petitioner, the prosecution had not subjected the child of the victim to DNA test, which falsifies the prosecution case. The conviction is based on the sole testimony of the victim. In any case, considering the age of the petitioner it appears to be a case of mutual innocence and biological attraction. This Court has to examine in the above appeal as to whether the conviction can be sustained on the basis of sole testimony of the victim. That apart, the learned counsel for the petitioner has pointed out several



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contradictions in the evidences, which raises a doubt with regard to the prosecution case. The petitioner is in custody from 12.08.2021. Considering the period of sentence and incarceration and the nature of relationship, this Court is inclined to grant suspension of sentence to the petitioner.

7. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended till the disposal of the above Criminal appeal 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/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Tiruvarur,;
- (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 the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under



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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.

31.01.2025

rsi

Issue order copy by 04.02.2025
Upload the order copy forthwith.

To

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



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SUNDER MOHAN, J.

rsi

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