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CRL.MP.No.5771 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-04-2026

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.MP.No.5771 of 2026
in CRL.A.No.374 of 2026

Sathish

..Petitioner(s)

Vs.

The State rep. by,
The Inspector of Police,
All Women Police Station,
Tiruvarur.
Cr.No.13/2021.

..Respondent(s)

Prayer : Criminal Miscellaneous Petition filed under Section 430(2) of BNSS, praying to suspend the execution of the sentence passed in Sessions Case No.65 of 2022 dated 04.03.2026 by the learned Sessions Judge, Fast Track Mahila Court, Tiruvarur, against the petitioner/appellant and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner : Mr.B.Ajith Kumar

For Respondent : Ms.J.R.Archana,
Government Advocate (Criminal Side)



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ORDER

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This Criminal Miscellaneous Petition has been filed seeking suspension of sentence of imprisonment, imposed by the learned Sessions Judge, Fast Track Mahila Court, Tiruvarur in Sessions Case No.65 of 2022 vide judgment dated 04.03.2026 and to enlarge the petitioner/appellant on bail, pending disposal of the Criminal Appeal.

2. The conviction and sentence imposed against the petitioner/appellant, vide impugned judgment are as follows:-

<i>Under Section</i>	<i>Sentence</i>
417 of IPC	1 year R.I. and a fine of Rs.1,000/-, in default, to undergo 1 month S.I.
493 of IPC	10 years R.I. and a fine of Rs.10,000/-, in default, to undergo 4 months S.I.
376(2)(n) of IPC	14 years R.I. and a fine of Rs.10,000/-, in default, to undergo 6 months S.I.
294(b) of IPC	3 months S.I. and a fine of Rs.500/-, in default, to undergo 3 weeks S.I.
506(ii) of IPC	3 years R.I. and a fine of Rs.500/-, in default, to undergo 4 weeks S.I.
The sentences were ordered to run concurrently.	



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3. The case of the prosecution is that the petitioner/appellant induced P.W.1, the victim girl, into a physical relationship through a false promise of marriage, committed rape and subsequently, reneged.

4. During the trial, the prosecution examined 11 witnesses and marked 7 documents. On the side of the defence, accused examined himself as D.W.1 and marked Ex.D1. When the petitioner/appellant was questioned under Section 313 of Cr.P.C., he denied all incriminating circumstances.

5. After hearing the arguments of both sides, the Trial Court found the petitioner/appellant guilty and convicted him as aforementioned. Aggrieved by the said conviction and sentence, the petitioner/appellant has preferred the present appeal along with a petition seeking suspension of sentence and his enlargement on bail.

6. The learned counsel for the petitioner would submit that the Trial Court has grossly erred in convicting the petitioner/appellant without properly appreciating the evidence on record. Admittedly, the marriage between the



petitioner/appellant and P.W.1 was registered on 22.11.2024 at the office of the Joint 1 Sub Registrar, Tiruvarur, and consequently, the charges levelled against the petitioner/appellant are unsustainable. Even a perusal of P.W.1's testimony reveals a long-standing consensual relationship between her and the petitioner/appellant, which culminated in their marriage. In such circumstances, the essential ingredients of the alleged offences are not made out and the conviction deserves to be set aside. Further, he submitted that there are arguable points in the Criminal Appeal, which is unlikely to be taken up for final hearing in the near future and that the petitioner/appellant has a fair chance of succeeding in the appeal and hence, the sentence imposed on the petitioner/appellant may be suspended and the petitioner/appellant may be enlarged on bail.

7. In support of his contention, the learned counsel appearing for the petitioner/appellant relied on the judgment of the Hon'ble Apex Court in ***Mahes Damu Khare vs. The State of Maharashtra & another*** reported in (2024) 11 SCC 398 for the proposition that the offences under Section 376 & 417 of IPC cannot be made out in a case of prolonged consensual relationship subsequently turning sour. The relevant paragraphs from the said judgment read thus:-



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“24. It may be also noted that there may be occasions where a promise to marry was made initially but for various reasons, a person may not be able to keep the promise to marry. If such promise is not made from the very beginning with the ulterior motive to deceive her, it cannot be said to be a false promise to attract the penal provisions of Section 375 IPC, punishable under Section 376 IPC.

25. In the present case, even assuming that the appellant had made the promise since 2008 when they met for the first time, the fact that they remained unmarried for a long period till 2017 without there being any protest or objection by the complainant, does not indicate the intention at the initial stage itself to make the promise falsely to marry the complainant. Making an allegation of non-fulfilment of promise to marry without undue delay by the promisee would, on the other hand, be an indicator of a false promise being made from the initial stage. In the present case, what is not in dispute is that the physical relationship between the appellant and the complainant continued for a long period of about a decade and as such it is difficult to infer that the appellant had made a false promise since the initial stage and continued to make false promises to marry her on the basis of which she also continued to have physical relationship with him.

26. In the present case, the nature of relationship



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between the appellant and the complainant can be characterised by the following attributes:

(i) The appellant and the complainant were acquainted with each other since 2008. The complainant herself admits that the appellant has been in physical relationship since then till 2017 without protest in spite of alleging that the appellant had done so without her consent.

(ii) The physical relationship was going on routinely. But the complainant in her complaint states that after she got a rented room in Shirvane, Nerul Sector 1, Navi Mumbai, in December, 2010, the appellant used to come every day and had sexual intercourse everyday, though without her consent and by giving false promise of marriage.

(iii) The complainant does not appear to be a naive and gullible woman who was susceptible to deceit while maintaining physical relationship with the appellant and the allegation of false promise surfaced only when the appellant refused to provide further financial and other assistance.

(iv) The conduct of the complainant clearly shows that she is a mature person clearly capable of understanding the consequences of her acts and she was fully aware of the kind of illicit relationship she was maintaining with a married person.

(v) The complainant was fully aware that the appellant was already married and had two wives, though one of them was not keeping well.

27. Thus, from the above it appears that it is more of an extra-marital affair during the aforesaid period without



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any insistence by the complainant for getting married to the appellant. The fact that the complainant continued to have a physical relationship for a long time without any insistence on marriage would indicate the unlikelihood of any such promise made by the appellant for marrying her and it rather indicates that the relationship was a consensual one. In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a relationship based on false promise of marriage by the male partner and thus, based on misconception of fact.

28. Moreover, even if it is assumed that a false promise of marriage was made to the complainant initially by the appellant, even though no such cogent evidence has been brought on record before us to that effect, the fact that the relationship continued for nine long years, would render the plea of the complainant that her consent for all these years was under misconception of fact that the Appellant would marry her implausible. Consequently, the criminal liability attached to such false promise would be diluted after such a long passage of time and in light of the fact that no protest was registered by the complainant during all those years. Such a prolonged continuation of physical relationship without demurrals or remonstrations by the female partner, in effect takes out the sting of criminal



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culpability and neutralises it.

29. It will be very difficult to assume that the complainant who is otherwise a mature person with two grown up children, was unable to discover the deceitful behaviour of the appellant who continued to have sexual relationship with her for such a long period on the promise of marriage. Any such mendacious act of the appellant would have been exposed sooner without having to wait for nine years. The inference one can draw under the circumstances is that there was no such false promise made to the complainant by the appellant of marriage by continuing to have physical relationship so as to bring this act within the province of Section 376 IPC and therefore, there was no vitiation of consent under misconception of fact.

30. Further, it appears that discontinuance of financial support to the complainant, rather than the alleged resiling from the promise to marry by the appellant appears to be the triggering point for making the allegation by the complainant after a long consensual relationship for about nine years.

31. In our view if criminality is to be attached to such prolonged physical relationship at a very belated stage, it can lead to serious consequences. It will open the scope for imputing criminality to such long term relationships after turning sour, as such an allegation can be made even at a



belated stage to drag a person in the juggernaut of stringent criminal process. There is always a danger of attributing criminal intent to an otherwise disturbed civil relationship of which the Court must also be mindful.

32. It is evident from the large number of cases decided by this Court dealing with similar matters as discussed above that there is a worrying trend that consensual relationships going on for prolonged period, upon turning sour, have been sought to be criminalised by invoking criminal jurisprudence.”

(emphasis supplied)

8. The learned counsel further pointed out that the Hon'ble Supreme Court echoed the same view in ***Prashant vs. State of NCT of Delhi*** reported in **(2025) 5 SCC 764**. The relevant paragraphs from ***Prashant's case, supra***, are as under:-

“17. In the present case, the issue that had to be addressed by the High Court was whether, assuming all the allegations in the FIR are correct as they stand, an offence punishable under Sections 376 and 506 IPC were made out. A bare perusal of the FIR reveals that the appellant and the complainant first came in contact in the year 2017 and established a relationship thereafter. The parties met multiple times at various places during the years 2017 and



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2019, including at parks and their respective houses. Although the complainant stated that the appellant had a forceful sexual relationship with her, neither did she stop meeting the appellant thereafter, nor did she file a criminal complaint during the said period.

18. It is inconceivable that the complainant would continue to meet the appellant or maintain a prolonged association or physical relationship with him in the absence of voluntary consent on her part. Moreover, it would have been improbable for the appellant to ascertain the complainant's residential address, as mentioned in the FIR unless such information had been voluntarily provided by the complainant herself.

19.....

20. In our view, taking the allegations in the FIR and the charge-sheet as they stand, the crucial ingredients of the offence under Section 376(2)(n) IPC are absent. A review of the FIR and the complainant's statement under Section 164 CrPC discloses no indication that any promise of marriage was extended at the outset of their relationship in 2017. Therefore, even if the prosecution's case is accepted at its face value, it cannot be concluded that the complainant engaged in a sexual relationship with the appellant solely on account of any assurance of marriage from the appellant. The relationship between the parties was cordial and also consensual in nature. A mere break



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up of a relationship. Between a consenting couple cannot result in initiation of criminal proceedings. What was a consensual relationship between the parties at the initial stages cannot be given a colour of criminality when the said relationship does not fructify into a marital relationship. Further, both parties are now married to someone else and have moved on in their respective lives. Thus, in our view, the continuation of the prosecution in the present case would amount to a gross abuse of the process of law. Therefore, no purpose would be served by continuing the prosecution.”

(emphasis supplied)

9. Further, in ***Prashant’s case***, *supra*, the Hon’ble Supreme Court has considered the view in ***XI Vs. State of M.P.*** reported in **(2024) 3 SCC 496** and in ***Pramod Suryabhan Pawar Vs. State of Maharashtra*** reported in **(2019) 9 SCC 608**. The relevant paragraph from ***Prashant’s case***, *supra*, reads as under:-

*“23. Recently this Court in XI v. State of M.P. held that when the relationship between the parties was purely consensual and when the complainant was aware of the consequences of her actions, the ingredients of the offence of rape were not made out. Similarly, in *Pramod Suryabhan Pawar v. State of Maharashtra* arising out of identical facts, this Court has enumerated the following*



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(SCC p. 620, para 18)

“18. To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman’s decision to engage in the sexual act.””

(emphasis supplied)

10. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent Police would submit that the prosecution has established the case beyond reasonable doubt and the petitioner/appellant has not made out any case for suspension of sentence and his subsequent release on bail.

11. Heard the learned counsel for the petitioner/appellant and the learned Government Advocate (Criminal Side) for the respondent Police and perused the materials on record.



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12. Considering the facts and circumstances of the case, the submissions made by the learned counsel on either side and on considering the ratio laid down in the aforementioned judgments of the Apex Court that a case of prolonged consensual relationship subsequently turning sour, cannot attract the offences under Sections 376 & 417 of IPC, this Court is inclined to grant the relief of suspension of sentence imposed on the petitioner/appellant and the petitioner/appellant is ordered to be released on bail.

13. Accordingly, till the disposal of the appeal, the substantive sentence of imprisonment alone is suspended and the petitioner/appellant is ordered to be released on bail, subject to the following conditions:-

i. The petitioner shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Tiruvarur.

ii. The sureties shall affix their photographs and left thumb



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impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Passbooks to ensure their identities.

iii. The petitioner shall appear before the Trial Court on the first working day of every English calendar month at 10.30 a.m., until further orders.

14. Accordingly, this Criminal Miscellaneous Petition stands ordered.

15-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To

1.The Inspector of Police,
All Women Police Station,
Tiruvarur.

2.The Sessions Judge,
Fast Track Mahila Court,
Tiruvarur.

3.The Superintendent,
Central Prison,
Trichy.

4.The Public Prosecutor,
High Court of Madras.



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