



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.286 of 2022

in

Crl.A.No.21 of 2022

Vijay

...Petitioner

Vs.

The State rep. by
The Inspector of Police
Attur Town Police Station,
Salem District.
(Crime No.246 of 2015)

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) r/w.439 of Cr.P.C to suspend the sentence imposed on the petitioner/appellant by the learned Special Principal Sessions Judge for the exclusive Trial of POCSO Act cases at Salem, made in Spl. S.C.No.17 of 2019, dated 28.12.2021 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

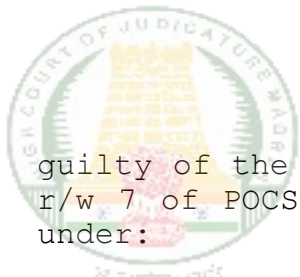
For Petitioner : Mr.S.Panneer Selvan

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the learned Special Principal Sessions Judge for the exclusive Trial of POCSO Act Cases at Salem by the judgment dated 28.12.2021 in Special Sessions Case No.17 of 2019 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

2. The petitioner/appellant herein is the accused in Sessions Case No.17 of 2019 on the file of the Special Principal Sessions Court for the exclusive Trial of POCSO Act Cases, Salem. He was found



guilty of the offence under Section 451 of I.P.C. and under Section 8 r/w 7 of POCSO Act, 2012 and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 451 of I.P.C.	2 years Rigorous Imprisonment and fine of Rs.5,000/- in default to undergo 3 months Simple Imprisonment
2.	Section 8 r/w 7 of POCSO Act	3 years Rigorous Imprisonment and fine of Rs.5,000/- in default to undergo 3 months Simple Imprisonment
The sentences are directed to run concurrently.		

3. Challenging the above conviction and sentence, the petitioner/accused has filed CrI.A.No.21 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The case of the prosecution is that at the time of occurrence, the P.W.10-victim girl was aged about 16 years. On 15/16.04.2015 about 2.00 a.m., when the victim girl was sleeping in her house along with her father, mother and brother, the petitioner, who is the neighbour of the victim girl had trespassed into her house and sexually abused the victim girl. Hence, a case was registered against the petitioner/accused for the offence punishable under Section 451 of I.P.C. and under Section 8 r/w 7 of POCSO Act, 2012.

5. Learned counsel for the petitioner/accused submitted that there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended and the petitioner may be enlarged on bail pending disposal of the above Criminal Appeal. He would further submit that the petitioner has been in incarceration from 28.12.2021.

6. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

7. Heard the learned counsels appearing on either side and also perused the materials placed on record.



8. The submissions made by the learned counsel appearing on either side are considered. The evidence given by the victim girl in respect of the offence under Section 8 of POCSO Act requires detailed appraisal. Further the appeal is not likely to be taken for final hearing in the near future. More than that the petitioner is incarceration from 28.12.2021.

9. Accordingly, considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail is granted on the following conditions:

(a) The petitioner/accused is ordered to be released on bail, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Principal Sessions Judge for the exclusive trial of POCSO Act Cases at Salem.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar 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 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.

With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-

01/03/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



TO

1 THE SPECIAL PRINCIPAL SESSIONS JUDGE
FOR THE EXCLUSIVE TRIAL OF POCSO ACT CASES,
SALEM.

2 THE INSPECTOR OF POLICE,
ATTUR TOWN POLICE STATION,
SALEM DISTRICT.

3 THE OFFICER CHARGE,
SUB JAIL, PALLADAM, TIRUPPUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S. S.PANNEER SELVAN Advocate on payment of
necessary charges SR.No.3149

Order
in
CRL MP.286/2022
in
CRL.A.21/2022
Date :01/03/2022

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CSK 02/03/2022