



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.3017 of 2022

in

Crl.A.No.238 of 2022

Mabujohn

...Petitioner

Vs.

The State rep by  
The Inspector of Police,  
Kanathur Police Station,  
Chennai - 112.  
(Crime No.25 of 2014)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C to suspend the sentence of imprisonment imposed against the petitioner by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Chengalpattu, in Special cases No.01 of 2019 (Old No.04/2015) dated 26.02.2021 and release the petitioner on bail pending disposal of the above Criminal Appeal.

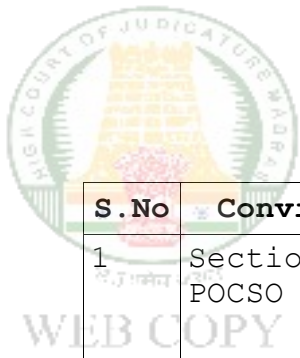
For Petitioner : Mr.V.Parthiban

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 imposed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Chengalpattu, in Special case No.01 of 2019 (old No.04/2015) dated 26.02.2021 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The petitioner herein is the accused in Special case No.01 of 2019 on the file of the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Chengalpattu. He was found guilty of the offence under Section 6 of the Protection of Children from Sexual Offences Act 2012 (herein after called as "POCSO Act") and he has been convicted and sentenced as under:



| S.No | Conviction             | Sentence                                                                                                                                                         |
|------|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1    | Section 6 of POCSO Act | to undergo rigorous imprisonment for a period of ten years and to pay fine of Rs.5,000/- in default to undergo a simple imprisonment for a period of six months. |

3. Challenging the above conviction and sentence, the petitioner/accused, has filed Crl.A.No.238 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4. The case of the prosecution is that the victim girl aged about 7 years was residing along with her parents in a road side hut situated at Paniayur, East Coastal Road, and the petitioner/accused herein was working as a watchman in a bungalow situated in the same area. On 18.01.2014, at about 11.00 a.m., when the victim girl was alone, the petitioner/accused took the victim girl to Paniayur park and had committed the penetrative sexual assault over the victim girl. Hence the case.

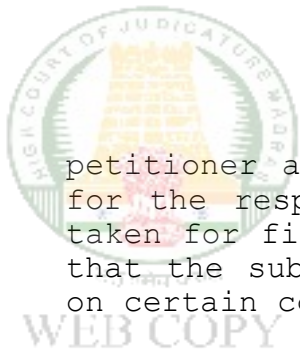
5. Heard Mr.V.Parthiban, learned counsel appearing for the petitioner/accused and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side) appearing for the respondent/Police.

6. According to the learned counsel for the petitioner/accused, 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. He would further submit that as per the case of the prosecution, the alleged occurrence was happened around 11.00 a.m., in the public park and the same needs detail appraisal. He would also submit that the petitioner is ready to abide the condition imposed by this Court.

7. 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.

8. Submission made by the learned counsel appearing on either side are considered and also perused the materials placed on record.

9. Considering the facts and circumstances of the case coupled with the fact that the petitioner is in incarceration from 26.02.2021 and also by considering the submissions of the learned counsel for the



petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police, further this appeal is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions.

10. Accordingly, till the disposal of the Criminal Appeal, the sentence of imprisonment alone is suspended and bail is granted to the petitioner on the following conditions:

(a) the petitioner/accused is ordered to be released on bail, on his 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 Judicial Magistrate, Alanthur.

(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 revision petition 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.

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

-sd/-  
25/04/2022

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 SESSIONS JUDGE,  
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES  
UNDER POCSO ACT, CHENGALPATTU.

2 THE JUDICIAL MAGISTRATE,  
ALANTHUR.



3 THE CHIEF JUDICIAL MAGISTRATE  
CHENGALPATTU. [FOR INFORMATION]

4 THE SUPERINTENDENT,  
CENTRAL PRISON,  
PUZHAL-I, CHENNAI.

5 THE INSPECTOR OF POLICE,  
KANATHUR POLICE STATION,  
CHENNAI -112.

6 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+1 C.C. to M/S M.MOHAMED SAIFULLA Advocate on payment of  
necessary charges SR.NO. 6178

Order

in  
CRL MP.3017/2022

in  
Crl.A.No.238 of 2022

Date :25/04/2022

From 7.2.2001 the Registry is issuing certified  
copies of the BAIL/Anti.BAIL Orders in this format

RW 27/04/2022