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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CrI.M.P.No.5268 of 2022

in

CrI.A.No.432 of 2022

1. Vinoth
2. Tamizhsaran @ Muthamizhan ...Petitioners

Vs.

The State by its
The Inspector of Police,
Lawspet Police Station,
Puducherry.

(Crime No.27 of 2017) ... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed upon the petitioners/appellants by the learned Special Judge, Puducherry, Special Judge under POCSO Act, 2012, Principal Session Judge, in Spl.S.C.No.69 of 2019 by the judgment dated 29.03.2022 and enlarge the petitioner on bail pending appeal.

For Petitioners : Mr.C.Mohana Krishnan

For Respondent : Mr.V.Balamurugane,
Additional Public Prosecutor (Pondicherry)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioners, seeking suspension of sentence imposed by the learned Principal Session Judge, Special Judge under POCSO Act, 2012, Puducherry, in Spl.S.C.No.69 of 2019 dated 29.03.2022, and enlarge the petitioners on bail pending disposal of the above appeal.

2.The petitioners herein are the accused in Spl.S.C.No.69 of 2019 on the file of the learned Principal Session Judge, Special Judge under POCSO Act, 2012, Puducherry. They were found guilty of



the offences under Section 12 of POCSO Act, 2012 and Section 506(i) of IPC r/w 34 of IPC and they have been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Section 12 of POCSO Act, 2012	to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.5,000/-, in default to undergo simple imprisonment for three months.
2	Section 506(i) of IPC r/w 34 of IPC	to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.2,000/-, in default to undergo simple imprisonment for three months.

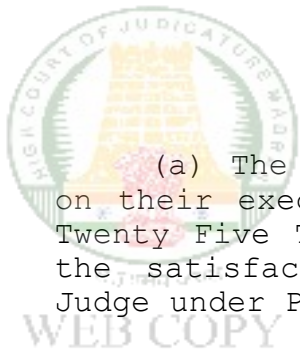
Aggrieved against the same, the petitioners have filed this appeal along with the present miscellaneous petition.

3. The learned counsel for the petitioners/accused would submit that there are arguable points available in the Criminal Appeal and the petitioners/accused have got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioners/accused may be suspended. Further it is his specific submission that while at the time of pronouncing judgment, the trial Court has suspended the sentence till 26.04.2022. He would submit that the petitioner is ready to abide the condition imposed by this Court.

4. 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.

5. Heard the learned counsel appearing on either side and also perused the materials placed on record.

6. Considering the facts and circumstances of the case coupled with the quantum of punishment imposed upon the petitioners, also by considering the submissions of the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent police, further this criminal 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. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail are granted on the following conditions:



(a) The petitioners/accused are ordered to be released on bail, on their executing a separate 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 Principal Session Judge, Special Judge under POCSO Act, 2012, Puducherry.

(b) The petitioners/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 petitioners 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 there are not able to appear before the trial Court on any day, they 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.

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

-sd/-

21/04/2022

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

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

TO

1 THE PRINCIPAL SESSIONS JUDGE
SPECIAL JUDGE UNDER POCSO ACT 2012,
PUDUCHERRY.

2 THE INSPECTOR OF POLICE
LAWSPET POLICE STATION,
PUDUCHERRY.

3 THE PUBLIC PROSECUTOR
PUDUCHERRY.



4 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

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+1C.C. to MR.G.MOHANA KRISHNAN Advocate on payment of necessary
charges SR.No.6000

Order
in
CRL MP.5268/2022
in
CRL.A.432/2022
Date :21/04/2022

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CSK 22/04/2022