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Crl.M.P.No.5273 of 2022 in Crl.A.No.433 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.5273 of 2022 in Crl.A.No.433 of 2022

Nayan Nagarkar

... Petitioner

Versus

State rep.,
by Inspector of Police,
All Women Police Station,
Neyveli.
(Crime No.06 of 2018)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence, dated 10.03.2022 imposed in Spl. Sessions Case No.01 of 2020 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.

For Petitioner : Mr.N.U.Pressanna

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition is to suspend the sentence, dated



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10.03.2022 imposed in Spl. Sessions Case No.01 of 2020 on the file of the

Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.

2. The learned Counsel for the petitioner submits that the petitioner, being a Teacher, was implicated in this case. The allegation against the petitioner is that he had kept the mobile phone hidden under paper and made the girl students to stand near the same and thereby, took pictures of the victim children. He would submit that firstly, on a perusal of the evidence, in this case, the recovery itself is doubtful and the Material Object, Cellphone, which was recovered was not proven to be used in the manner as aforesaid. Further, he would submit that no pictures have been found in the Cellphone as alleged by the prosecution. He would also submit that the petitioner is in prison from 10.03.2022 i.e., from the date of the judgment and prays for grant of suspension of sentence.

3. Per contra, the learned Government Advocate (Crl. Side) would submit that the petitioner, being a Teacher ought not to have indulged in this kind of serious acts, totalling demoralizing the girl students, but, however, on a query of this Court, he would answer by saying that the mobile phone is recovered and



produced before the Court and no such pictures were found to be there.

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4. Considering the above circumstances of the case and considering the fact that the petitioner is in prison from 10.03.2022 and it may take a while for this Court to dispose off the appeal and considering the total sentence imposed by the Trial Court being five years, I am of the view that this is a fit case for enlarging the petitioner on bail pending disposal of the appeal. Accordingly, the sentence is suspended on the following terms:-

(a) the petitioner 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 Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Judge may obtain a copy of their Aadhar 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 Criminal 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 of Cr.P.C., and shall appear before the Trial Court on any other day in *lieu* of the date of his



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absence, as directed by the Trial Court.

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D.BHARATHA CHAKRAVARTHY. J.,
grs

5. This Criminal Miscellaneous Petition is ordered accordingly.

26.07.2022

Index : yes/no

Internet : yes/no

Speaking order/Non-speaking order
grs

To

1. The Special Court for Exclusive Trial of Cases
under POCSO Act, Cuddalore .
2. The Public Prosecutor,
High Court of Madras.
3. The Inspector of Police,
All Women Police Station,
Neyveli.
4. The Superintendent,
Central Prison,
Cuddalore.

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