



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.5887 of 2022

in

Crl.A.No.466 of 2022

G.Venkatesan

...Petitioner

Vs.

The State rep by
The Inspector of Police,
W-16, All Women Police Station,
Pulianthope, Chennai.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(3) (i) of Cr.P.C to suspend the sentence of imprisonment imposed in S.C.No.178 of 2018 dated 23.03.2022, on the file of the Special Court for exclusive trial of cases under POCSO Act, Chennai, and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

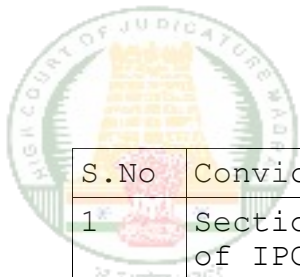
For Petitioner : Mr.G.Ashokumar

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, Chennai, in S.C No.178 of 2018 dated 23.03.2022 and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The petitioner herein is the accused in S.C No.53 of 2020 on the file of the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Chennai. He was found guilty of the offence under Section 448 of IPC and Section 8 of the Protection of Children from Sexual Offences Act 2012 (herein after called as "POCSO Act") @ 18 r/w 8 of POCSO Act and he has been convicted and sentenced as under:



S.No	Conviction	Sentence
1	Section 448 of IPC	to undergo imprisonment for a period of one year
2.	Section 8 of POCSO Act @ 18 r/w 8 of POCSO Act	to undergo imprisonment for a period of two years and to pay fine of Rs.5,000/- in default to undergo a imprisonment for a period of one month. Both sentences are run concurrently.

to undergo imprisonment for a period of two years and to pay fine of Rs.5,000/- in default to undergo a imprisonment for a period of one month. Both sentences are run concurrently.

3. Challenging the above conviction and sentence, the petitioner/accused, has filed Crl.A.No.466 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4. The case of the prosecution is that on 19.07.2013, after the defacto complainant and her husband went for their job, their daughter, the victim child aged 13 years was alone in her house, the accused who is residing opposite to her house, trespassed into their house hugged the victim child, kissed her and pressed her breast. Hence the case.

5. Heard Mr.G.Ashok Kumar, 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 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 and considering the fact that the trial Court has already suspended the sentence till 25.04.2022, coupled with the quantum of punishment imposed upon the petitioner, 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 Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Chennai.

(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/-

29/04/2022

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.



1 THE SESSIONS JUDGE, SPECIAL
COURT FOR EXCLUSIVE TRIAL OF CASES UNDER
POCSO ACT, CHENNAI

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

3 THE INSPECTOR OF POLICE,
W-16, ALL WOMEN POLICE STATION,
PULIANTHOPE, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.G.ASHOKUMAR Advocate on payment of necessary
charges Sr.6601

Order

in
CRL MP.5887/2022

in Crl.A.No.466 of 2022

Date :29/04/2022

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

RVR 29/04/2022