



Crl.M.P.No.6964 of 2022 in Crl.A.No.526 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.6964 of 2022

in

Crl.A.No.526 of 2022

Gopinathan (Aged 28 years)

... Petitioner

Versus

State rep. by
The Inspector of Police,
Nellikuppam Police Station,
Cuddalore District.
(Crime No.1444 of 2020)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure to suspend the sentence imposed against the petitioner on 07.04.2022 in Spl.S.C.No.21 of 2021, on the file of the Special Court (POCSO cases), Cuddalore District and release the petitioner on bail till the disposal of the Criminal Appeal.

For Petitioner : Mr. P. Pugalenth

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

ORDER

This Criminal Miscellaneous Petition is to enlarge the petitioner on bail by suspending the sentence imposed on him by the learned Sessions Judge, Special Court (POCSO cases), Cuddalore District, on 07.04.2022 in



Crl.M.P.No.6964 of 2022 in Crl.A.No.526 of 2022

in Spl.S.C.No.21 of 2021, pending disposal of the above appeal.

WEB COPY

2.Heard the learned Counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

3.Learned Counsel for the petitioner would submit that this is the case wherein the petitioner/accused are in a relationship in the nature of love affair and the petitioner was 28 years and the victim child was aged 15 years 9 months at the time of occurrence. Therefore, he would further submit that the Trial Court has erred in convicting the petitioner/accused for the offense under Sections 5(i) and 6 of the POCSO Act.

4.Per contra, the learned Government Advocate (Crl. Side), would submit that in any event, the prosecution has proved that the victim was less than eighteen years of age and therefore, the Trial Court has rightly convicted the petitioner/accused.

5.Considering the nature of allegations in this case, the love affair and elopement, the age of the accused as well as the age of the victim and



Crl.M.P.No.6964 of 2022 in Crl.A.No.526 of 2022

WEB COPY

considering the fact that the petitioner is under incarceration from 07.04.2022, I am of the view that this is a fit case for grant of suspension of sentence, pending disposal of the appeal and accordingly, the sentence is suspended on the following conditions:-

(a) the petitioner 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 Sessions Judge, Special Court (POCSO cases), Cuddalore District.;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate 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 Revision and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application



Crl.M.P.No.6964 of 2022 in Crl.A.No.526 of 2022

WEB COPY

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 absence, as directed by the Trial Court.

6. This Criminal Miscellaneous Petition is ordered accordingly.

25.07.2022

Index : yes/no

Speaking order/Non-speaking order

klt

To

- 1.The Sessions Judge, Special Court (POCSO cases), Cuddalore District.
- 2.The Inspector of Police, Nellikuppam Police Station, Cuddalore District.
- 3.The Public Prosecutor, High Court of Madras.
- 4.The Superintendent of Police, Central Prison, Cuddalore.



WEB COPY



Crl.M.P.No.6964 of 2022 in Crl.A.No.526 of 2022

D.BHARATHA CHAKRAVARTHY. J.,

klt

Crl.M.P.No.6964 of 2022
in
Crl.A.No.526 of 2022

25.07.2022