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Crl.M.P.No.12539 of 2021 in Crl.A.No.608 of 2021

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.12539 of 2021

in

Crl.A.No.608 of 2021

M.Gokula Kannan, (Male, Aged 31 years)

... Petitioner

Versus

State rep. by

Inspector of Police,

W.18 All Women Police Station,

MKB Nagar, Chennai.

(P6 Kodungaiyur PS Crime No.1489/2015)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 439(1) of the Code of Criminal Procedure to enlarge the petitioner on bail by suspending the sentence imposed on him by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai, on 10.08.2021 in S.C.No.280 of 2017, pending disposal of the Criminal Appeal.

For Petitioner : Mr. S.Prashanth

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 for Exclusive Trial of cases under POCSO Act,



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Chennai, on 10.08.2021 in S.C.No.280 of 2017, pending disposal of the above appeal.

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 nature of allegation is of love affair and the petitioner/accused and the victim child eloped and even got married. He would further submit that the Trial Court has erred in convicting the petitioner/accused for the offense under Section 6 of the POCSO Act.

4.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 marriage, and considering that the age of the accused was twenty eight



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years, at the time of offence and the age of the victim was sixteen years respectively, considering the fact that the petitioner is under incarceration from 10.08.2021 onwards, 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 for Exclusive Trial of Cases under POCSO Act, Chennai;

(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



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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 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 for Exclusive Trial of cases under POCSO Act, Chennai,
- 2.The Inspector of Police, W.18 All Women Police Station, MKB Nagar, Chennai.
- 3.The Public Prosecutor, High Court of Madras.
- 4.The Superintendent of Police, Central Prison, Puzhal, Chennai.



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D.BHARATHA CHAKRAVARTHY. J.,

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