



Crl.M.P.No.13221 of 2021 in Crl.A.No.644 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.13221 of 2021
in Crl.A.No.644 of 2021

B.Chidambaranathan

... Petitioner

Versus

State rep. by
The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai – 600 040.
Crime No.11 of 2020.

... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Section 389(i) of the Code of Criminal Procedure, pleaded to suspend the sentence imposed on the petitioner by Judgment dated 30.09.2021 passed in Spl.S.C.No.27 of 2021 on the file of the Learned Special Judge, Special Court for Exclusive Trail Cases Under POCSO Act at Chennai and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.M.Krishnamoorthy

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

ORDER



Crl.M.P.No.13221 of 2021 in Crl.A.No.644 of 2021

WEB COPY

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by Judgment dated 30.09.2021 passed in Spl.S.C.No.27 of 2021 on the file of the Learned Special Judge, Special Court for Exclusive Trial Cases Under POCSO Act at Chennai and enlarge the petitioner on bail pending disposal of the above appeal.

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

3. The learned Counsel for the petitioner would submit that the petitioner/accused is a deaf and dumb person; on the date of occurrence, as per the evidence of PW.1, when the victim child was playing in the stair case, when she went down, the petitioner/accused is said to have removed her under garment and touched her private part. Immediately, there upon, the child came running and crying. When the petitioner/accused was confronted by P.W.1, who is the mother of the victim child, the petitioner/accused pleaded with the folded hands to her and went away.



Crl.M.P.No.13221 of 2021 in Crl.A.No.644 of 2021

WEB COPY

4. Learned counsel for the petitioner also submitted that the petitioner is now in prison from 13.09.2021, almost for an year. Therefore, he prays for suspension of sentence.

5. The learned Government Advocate (Crl.Side) would submit that the petitioner is 60 years old and has committed heinous offence as against the little child, who was 4 years old.

6. Considered the rival submission made on either side and perused the materials records of this case. Considering the nature of allegations in this case, considering the evidence of PW.1, about the timing of the offence and the nature of the act done by the petitioner and his subsequent conduct there upon, considering the fact that the petitioner is in incarceration from 13.09.2021 and considering the fact that it would take a while for this Court to prepare the appeal book ready and post the appeal for final hearing, I am of the view that the this is a fit case for grant of suspension of sentence for the petitioner pending disposal of the appeal. Therefore, I am inclined to suspend the sentence and grant bail to the petitioner on the



Crl.M.P.No.13221 of 2021 in Crl.A.No.644 of 2021

following conditions:-

(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 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 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 absence, as directed by the Trial Court.



Crl.M.P.No.13221 of 2021 in Crl.A.No.644 of 2021

7. This Criminal Miscellaneous Petition is ordered accordingly.

WEB COPY

17.08.2022

Index : yes/no

Speaking order/Non-speaking order

rgi

To

1. The Special Judge,
Special Court for Exclusive Trail Cases under POCSO Act,
Chennai.
2. The Superintendent of Police,
Central Prison,
Puzhal.
3. The Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai – 600 040.
4. The Public Prosecutor,
High Court of Madras.

D.BHARATHA CHAKRAVARTHY. J.,

5/6



WEB COPY



Crl.M.P.No.13221 of 2021 in Crl.A.No.644 of 2021

rgi

Crl.M.P.No.13221 of 2021
in Crl.A.No.644 of 2021

17.08.2022