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Crl.M.P.No.17662 of 2022  
in  
Crl.A.No.147 of 2021

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**P.N.PRAKASH, J.**  
and  
**G.CHANDRASEKHARAN, J.**

**ORDER**

(Made by *P.N.PRAKASH, J.*)

This criminal miscellaneous petition has been filed by the petitioner seeking a direction to suspend the sentence imposed on him by judgment and order dated 22.10.2020 passed in S.C.No.123 of 2014 on the file of the Sessions Court, (Special Court for the Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, 2012), Nagapattinam and to enlarge him on bail, pending disposal of the above appeal.

2. The petitioner, who was an accused in S.C.No.123 of 2014 before the Sessions Court, (Special Court for the Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, 2012), Nagapattinam, was convicted and sentenced as follows on 22.10.2020:



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| <b><i>Provision under which convicted</i></b>              | <b><i>Sentence</i></b>                                                                                                  |
|------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|
| Section 6 r/w 5 (f), (l) & (m) of the POCSO Act (2 counts) | Rigorous imprisonment for life and fine of Rs.10,000/-, in default to undergo two years simple imprisonment (2 counts). |
| Section 10 r/w 9 (l) & (m) of the POCSO Act (1 count)      | Seven years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo one year simple imprisonment (1 count). |
| The aforesaid sentences were ordered to run concurrently.  |                                                                                                                         |

3. Challenging the aforesaid conviction and sentences, the petitioner has filed Crl.A.No.147 of 2021 with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.S.Senthilvel, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. This is the second petition seeking suspension of sentence and bail and the earlier bail petition in Crl.M.P.No.4274 of 2021 was dismissed by this Court on 29.07.2021.



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6. It is the case of the prosecution that the petitioner was a school teacher and he had sexually abused two girls viz. P.W.6 and P.W.7, who were studying in V standard.

7. We scanned the evidence of P.W.6 and P.W.7 and found that they have implicated the petitioner and hence, it cannot be stated that the conclusion arrived at by the trial Court is perverse.

8. At this juncture, pertinent it is to point out that the Supreme Court, in **Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)**<sup>1</sup>, has considered **Kashmira Singh v. State of Punjab**<sup>2</sup> and has held as follows:

*“30. . . . . In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But it is well settled, as observed in Vijay Kumar*

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1 (2008) 5 SCC 230

2 1977 SCC (Cri) 559





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**24.11.2022**

To

- 1.The Sessions Judge,  
(Special Court for the Exclusive Trial of Cases  
under the Protection of Children from  
Sexual Offences Act, 2012), Nagapattinam.
- 2.The Superintendent of Prison,  
Central Prison,  
Cuddalore.
- 3.The Inspector of Police,  
Sirkazhi Police Station,  
Nagapattinam District.
- 4.The Public Prosecutor,  
Madras High Court,  
Chennai – 600 104.



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**P.N.PRAKASH, J.**  
and  
**G.CHANDRASEKHARAN, J.**

nsd

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24.11.2022