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Crl.M.P.No.18995 of 2022 in Crl.A.No.1263 of 2022



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 15.12.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**Crl.M.P.No.18995 of 2022**

**in**

**Crl.A.No.1263 of 2022**

1. Madhesh

2. Selvaraj

... Petitioners

/vs/

State, represented by  
the Inspector of Police,  
Thevoor Police Station,  
Salem District.

.. Respondent

**Prayer :** Criminal Miscellaneous Petition filed under section 389(1), r/w.439 of Cr.P.C., to suspend the sentence imposed against the petitioners in Spl.S.C.No.65 of 2020 on the file of the learned Sessions Judge, Principal POCSO Court, Salem, Salem District, dated 25.11.2022 and enlarge the petitioners on bail pending disposal of the criminal appeal.

For Petitioners

... Mr.E. Kannadasan

For Respondent

... Mr.C.E. Pratap, GA (crl.side)

**ORDER**

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed against the petitioners in Spl.S.C.No.65 of 2020 on the file of the learned Sessions Judge, Principal POCSO Court, Salem, Salem District, dated 25.11.2022 and enlarge the petitioners on bail pending disposal of the criminal appeal.



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2. The petitioners, who are A1 and A2 in Spl.S.C.No.65 of 2020 were convicted and sentenced by the learned Sessions Judge, Principal POCSO Court, Salem, Salem District as follows:

| <b><i>Petitioner's Rank</i></b> | <b><i>Provision under which convicted</i></b>                           | <b><i>Sentence</i></b>                                                                                                            |
|---------------------------------|-------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| A1 and A2                       | Section 341 IPC                                                         | Fine of Rs.500/- each                                                                                                             |
|                                 | Section 366 IPC                                                         | To undergo RI for 7 years and to pay a fine of Rs.1000/- each, in default, to pay fine, to undergo additional RI for one year.    |
|                                 | Section 11(i) of Protection of Children from Sexual Offences Act 2012   | To undergo RI for three years and to pay a fine of Rs.1000/- each, in default to pay fine, to undergo additional RI for 6 months. |
|                                 | Section 7 r/w.8 of Protection of Children from Sexual Offences Act 2012 | To undergo RI for 5 years and to pay fine of Rs.1000/- each, in default to pay fine, to undergo additional RI for one year.       |
|                                 | 3(1)(x) of SC/ST (Prevention of Attrocities) Act, 1989                  | To undergo RI for 3 years and to pay a fine of Rs.500/- each, in default in payment, to undergo, additional RI for 6 months       |
|                                 | 3(1)(xi) of SC/ST (Prevention of Attrocities) Act, 1989                 | To undergo RI for 3 years and to pay a fine of Rs.500/- each, in default, to undergo additional RI for six months.                |

The fine amount imposed was already paid and the sentence imposed for all



the offences were ordered to run concurrently.

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3. Aggrieved against the judgement of conviction and sentence imposed on the petitioners, they preferred criminal appeal in Crl.A.No.1263 of 2022 along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. Heard the learned counsel appearing for the petitioners and the learned Govt. Advocate (crl.side) appearing for the State.

5. The learned counsel for the petitioners submitted that there are arguable points in this appeal and the petitioners have good chance to succeed in the appeal. He further submitted that the petitioners have already paid the fine amount and they have been in judicial custody from 25.11.2022. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

6. The petitioners have raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioners have been confined in judicial custody from 25.11.2022 onwards. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of



the view that the petitioners are entitled to the relief of suspension of sentence and bail.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioners on the following conditions:

- (i) Each of the petitioners shall execute a bond for a sum of Rs.10,000/-(Rupees ten thousand only) along with two sureties, each for a likesum to the satisfaction of the Sessions Judge, Principal POCSO Court, Salem, Salem District.
- (ii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and
- (iii) The petitioners shall appear before the trial Court as and when required.

15.12.2022

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Note : Issue Today

To

1. The Sessions Judge, Principal POCSO Court,



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- Salem, Salem District,
2. The Superintendent of Prison,  
Central Prison, Salem.
3. The Inspector of Police,  
Thevoor Police Station,  
Salem District.
4. The Public Prosecutor  
High Court, Madras

**V.SIVAGNANAM, J.**

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