



WEB COPY



CrI.M.P.No.409 of 2023 in CrI.A.No.38 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.M.P.No.409 of 2023

in

CrI.A.No.38 of 2023

R. Ashok Kumar

... Petitioner

/vs/

The State represented by
the Inspector of Police,
All Woman Police Station,
Virudhachalam Police Station,,
Cuddalore District
Crime No.29 of 2019

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) r/w.439 of Cr.P.C., to suspend the sentence imposed on the petitioner in the judgment dated 28.02.2022 in Spl.S.C.No.143 of 2019 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore and enlarge the petitioner on bail.

For Petitioner ... Mr. R.Vivekanandan
for Mr.C. Muruganandam

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

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment imposed in the judgment dated



28.02.2022 made in Spl.S.C.No.143 of 2019 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2. The trial court, by its judgment dated 28.02.2022 made in Spl.S.C.No.143 of 2019 ordered as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1	U/s.366 of IPC u/s.342 IPC u/s.5(1), 6 of POCSO Act, 2012	To undergo 10 years RI and a fine of Rs.2000/-, in default in payment of fine, to undergo SI for a further period of 3 months. To undergo 1 year RI and a fine of Rs.1000/-, in default in payment of fine, to undergo SI for a further period of one month. To undergo 10 years RI and a fine of Rs.2000/-, in default in payment of fine, to undergo SI for a further period of 3 months.
		Acquitted from the charge u/s.323, 506(i) IPC and Sec.9 of Prohibition of Child Marriage Act, 2006.
A2		Acquitted from the charges framed u/s.366(A), 294(b) IPC, Sec. 17 and 6 of POCSO Act, 2012 and section 10 of Prohibition of Child Marriage Act, 2006.
The sentence of imprisonments imposed on the petitioner were ordered to run concurrently		



WEB COPY

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.143 of 2019, the petitioner has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. He would further submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal Petition.

5. Perused the the evidence of victim girl and the eye witness PW2. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. 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 petitioner is entitled to the relief of suspension of sentence and bail.

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



WEB COPY



CrI.M.P.No.409 of 2023 in CrI.A.No.38 of 20--

(i) The petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/-(Rupees ten thousand only) along with two sureties, each for a like sum, to the satisfaction of the Trial Court;

(ii) The petitioner 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 petitioner shall appear before the trial Court as and when required.

12.01.2023

msr

To

1. The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore
2. The Inspector of Police, All Woman Police Station, Virudhachalam Police Station,, Cuddalore District
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Cuddalore.



WEB COPY



Crl.M.P.No.409 of 2023 in Crl.A.No.38 of 2023

V.SIVAGNANAM, J.

msr

Crl.M.P.No.409 of 2023
in
Crl.A.No.38 of 2023

12.01.2023