



Crl.MP.No.3236 of 2023  
in Crl.A.No.232 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 27.11.2023**

CORAM :

**THE HONOURABLE MR. JUSTICE S.S.SUNDAR**

**AND**

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**Crl.MP.No.3236 of 2023**  
**in Crl.A.No.232 of 2023**

Lakshmi

... Petitioner/Accused - 2

Vs.

State rep. by  
Inspector of Police  
W-24, All Women Police Station,  
Teynampet, Chennai - 17  
Crime No.5 of 2017

... Respondent/Complainant

Prayer :- Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., to suspend the sentence imposed by the learned Sessions Judge, /Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, in S.C.No.119 of 2018, dated 29.06.2022 and enlarge the petitioner on bail, pending disposal of the above Criminal appeal.

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For Petitioner : M/s.N.Baaskaran  
For Respondent : Mr.A.Gokulakrishnan  
Additional Public Prosecutor

### **ORDER**

(Order of the Court was delivered by **S.S.SUNDAR, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/A2, by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, in S.C.No.119 of 2018, dated 29.06.2022 and enlarge the petitioner on bail, pending disposal of the above Criminal appeal.

2. The learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, in S.C.No.119 of 2018, convicted the petitioner for the offence under Section 6 r/w 17 of POCSO Act, 2012, and sentenced her to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/-, in default to undergo one month simple imprisonment.



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3.Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and she seeks suspension of sentence and bail in the present miscellaneous petition.

4.Heard Mr.N.Baaskaran, learned Counsel appearing for the petitioner/A2 and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor, appearing for the respondent/State.

5. The case of the prosecution is that the first accused is the paternal uncle of the victim/P.W.1, has committed repeated sexual assault as against the minor victim; and that A2 abetted the said offence.

6. The learned counsel appearing for the petitioner states that A1 and A2 have a daughter who was also living in the same house, where A1 and A2 were living; that she is also under the care and custody of both A1 and A2; that there is no one in the family to take care of daughter of A2; that there is no allegation against A2; that she was summoned as an accused only



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under Section 319 of Cr.P.C; and that however, based on the evidence of victim - P.W.1, A2 was also convicted.

7. We find that A2 was not originally arraigned as an accused in the Final Report and she was not named in the FIR also. She was tried as an accused by the trial Court in exercise of the powers under Section 319 Cr.P.C. after the evidence of the victim was recorded. The evidence of the victim as regards the role played by A2 is not cogent and convincing. For the aforesaid reasons and considering the fact that A2 is the only person to take care of her child and that the child requires the personal attention of her mother, this Court is inclined to Suspend the Sentence imposed on the petitioner/A2 alone.

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment imposed on the petitioner/A2 is suspended on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of



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the learned Sessions Judge, /Special Court for Exclusive Trial of Cases under POCSO Act, Chennai;

- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of the appeal and if she is not able to appear before the trial Court on any day, she shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of her absence, as directed by the trial Court.

(S.S.S.R., J.) (S.M., J.)  
27.11.2023

Internet : Yes

Index : Yes / No

**Note to office:**

**Issue order copy by 01.12.2023**

**Upload the order copy forthwith**



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To

- 1.The Sessions Judge,  
Special Court for Exclusive Trial of Cases under POCSO Act,  
Chennai.
- 2.The Inspector of Police  
W-24, All Women Police Station,  
Teynampet, Chennai - 17.
- 3.The Superintendent,  
Central Prison for Women,  
Puzhal Jail, Chennai.
- 4.The Public Prosecutor,  
High Court, Madras.



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**S.S. SUNDAR, J.**  
**and**  
**SUNDER MOHAN, J.**

dk

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**Dated: 27.11.2023**  
**(2/2)**