



Crl.M.P.No.2025 of 2023 in Crl.A.No.141 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :13.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.2025 of 2023

in

Crl.A.No.141 of 2023

Saravanan

...

Petitioner

Vs.

State represented by

The Inspector of Police,

Salem Town All Women Police Station,

Salem District.

(Crime No.7 of 2018).

...

Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of Criminal Procedure Code, to suspend the conviction and sentences imposed on the petitioner made in Spl.S.C.No.230 of 2019 dated 11.04.2022 on the file of the Special Court for the exclusive Trial of offences under POCSO Act, Salem and to release the petitioner on bail.

For Petitioner

: Mr.C.Prabakaran
for Mr.K.Muthu

For Respondent

: Mr.C.E.Pratap,
Govt.Advocate (Crl. Side)



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ORDER

This petition has been filed to suspend the conviction and sentences imposed on the petitioner made in Spl.S.C.No.230 of 2019 dated 11.04.2022 on the file of the Special Court for the exclusive Trial of offences under POCSO Act, Salem and to release the petitioner on bail.

2.The petitioner, who was the sole accused in Spl.S.C.No.230 of 2019, was convicted and sentenced by the trial Court as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	Under Section 5(l) r/w 6, POCSO Act, 2012	Sentenced to undergo 20 years rigorous imprisonment and fine of Rs.20,000/- in default to undergo six months simple imprisonment.
	Section 9, Prohibition of Child Marriage Act, 2006	Sentenced to undergo two years Rigorous Imprisonment and fine of Rs.10,000/-, in default, to undergo three months simple imprisonment.



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3. Aggrieved against the judgement of conviction and sentence imposed on the petitioner by the trial Court in Spl.S.C.No.230 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 in this case, the victim's evidence is not credible one because during the cross examination, she stated that in the presence of accused wife Backialakshmi, the accused tied Thaali on 12.12.2012 and raped her and in the 164 Cr.P.C., the presence of Backialakshmi is not stated. Under these circumstances, the police implicated the accused and the trial Court convicted the accused and there are arguable points in this Criminal Appeal and the petitioner has every chance to succeed in this appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

5. The learned Government Advocate (Crl.side) submitted that sufficient evidence is available against the accused. The trial Court



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based upon the evidence of the victim girl found guilty and there is no interference with the order passed by the trial Court. Thus, prayed to dismiss the suspense of sentence.

6. I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the respondent and perused the impugned judgment and the materials on record.

7.Taking into consideration of the above submission of the learned counsel appearing on both sides and on perusal of cross examination of the victim girl and 161 statement of the victim girl, this Court finds that the petitioner has substantial grounds in this Criminal Appeal, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.



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8. Accordingly, it is ordered as follows:-

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner ***shall execute 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 learned Special Court for the exclusive Trial of offences under POCSO Act, Salem.***

(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 to ensure their identity.

(iii) The petitioner shall appear before the Trial Court, as and when required.

13.02.2023

Index:Yes/No
Internet:Yes/No
sms



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To
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- 1.The Special Court for the exclusive Trial of offences
under POCSO Act, Salem.
- 2.The Inspector of Police,
Salem Town All Women Police Station,
Salem District.
(Crime No.7 of 2018).
- 3.The Superintendent,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM, J.

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