



WEB COPY



Crl.M.P.No.3519 of 2023
in Crl.A.No.255 of 2023

Crl.M.P.No.3519 of 2023
in Crl.A.No.255 of 2023

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

[Order of the Court was made by **SUNDER MOHAN, J.**]

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/A1 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, in Spl.S.C.No.8 of 2020, by judgment dated 18.07.2022, and to enlarge the petitioner/A1 on bail pending disposal of the above Criminal Appeal.

2.It is the case of the prosecution that the petitioner/A1 is a married man and A2 is the tuition teacher of the victim child; that A1 and A2 were neighbours and they had love affair themselves; that A2 asked the victim child to see whether A1 is present in his house and when the victim child went to see A1, he, with *mala fide* intention pulled the hand of the victim child and kissed her; that later, A1 developed a liking for the victim girl; that, on the promise to marry A2, A1 insisted A2 to call the victim child for a day to have physical relationship with him; that A2, with a desire to marry A1, threatened the victim child that she would



Crl.M.P.No.3519 of 2023
in Crl.A.No.255 of 2023

WEB COPY

commit suicide and managed to bring the victim child as demanded by A1; that both the accused took the victim child to a Hotel, where, A1 committed penetrative sexual assault on the victim child and criminally intimidated her not to disclose it to anyone. On coming to know about the incident, the father of the victim child lodged a complaint with the respondent Police and a case was registered in Crime No.6 of 2019 against the accused persons for the offences under Sections 366(A), 389 & 503 IPC and Section 4 & 4 r/w.17 of POCSO Act.

3.The accused were tried by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, in Spl.S.C.No.8 of 2020, and ultimately, both the accused were convicted and in particular, the petitioner/A1 was convicted and sentenced as follows :

<i>Conviction</i>	<i>Sentence</i>
Section 376(3) IPC	Imprisonment for life for the remaining period of natural life and to pay a fine of Rs.50,000/-, in default, to undergo simple imprisonment for six months
Section 366 IPC	Imprisonment for 10 years and to pay a fine of Rs.10,000/-, in default, to undergo Simple Imprisonment for three months



Crl.M.P.No.3519 of 2023
in Crl.A.No.255 of 2023

WEB COPY

4.Challenging the above conviction and sentence, the petitioner/A1 has filed the above Criminal Appeal and he is seeking suspension of sentence and bail in the present miscellaneous petition.

5.Learned counsel for the petitioner submitted that the victim child went along with the accused persons on her own volition. The learned counsel submitted that the age of the victim girl is not proved by evidence, as the parents of the victim girl have not spoken anything about the date of birth which is stated in the mark sheet marked as proof of age of the victim girl. The learned counsel submitted the trial Court rejected Exs.D1 and D2 note book, which speaks volumes about the relationship between A2 with another person namely Subham and that the petitioner/A1 has been falsely implicated in this case.

6.*Per contra*, learned Additional Public Prosecutor appearing for the respondents submitted that the prosecution has established their case beyond reasonable doubt and the appellant has not made out any case for suspension of sentence.



Crl.M.P.No.3519 of 2023
in Crl.A.No.255 of 2023

WEB COPY

7.We find on perusal of records, the judgment of the trial Court, and the submissions made by the learned counsel for the petitioner, that the points raised by the petitioner involves detailed appreciation of evidence which cannot be done at this stage while considering the petition for suspension of sentence. The points raised have to be appreciated only during the hearing of the appeal. Hence, we are not inclined to suspend the sentence.

8.Therefore, this Criminal Miscellaneous Petition deserves to be dismissed and hence, dismissed.

9.Post the appeal for final hearing in the usual course.

(S.S.S.R., J.) (S.M., J.)
15.12.2023

mkn

S.S. SUNDAR, J.



WEB COPY



Crl.M.P.No.3519 of 2023
in Crl.A.No.255 of 2023

and
SUNDER MOHAN, J.

mkn

Crl.M.P.No.3519 of 2023
in Crl.A.No.255 of 2023

15.12.2023