



Crl.M.P.No.4565 of 2023
in Crl.A.No.352 of 2023

WEB C **C.V.KARTHIKEYAN, J.**

AND

SENTHILKUMAR RAMAMOORTHY, J.

(Order of the Court was made by *C.V.KARTHIKEYAN, J.*)

This criminal miscellaneous petition has been filed by the petitioner/accused seeking suspension of sentence imposed on the petitioner by judgment dated 21.07.2022 passed in New Spl.S.C.No.16 of 2019 (Old Spl.S.C.No.33 of 2016) on the file of the Sessions Court, Special Court for Exclusive Trial of Cases under Section POCSO Act, Chengalpattu and to enlarge the petitioner on bail pending disposal of the appeal.

2. After a full fledged trial, the Sessions Court convicted and sentenced the petitioner as follows:

<i>S.No.</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
1	Section 450 IPC	Ten years rigorous imprisonment and fine of Rs.10,000/-, in default to undergo one year imprisonment.
2	Section 354-B IPC	Five years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo six months imprisonment.
3	Section 6 of the POCSO Act	Life imprisonment and fine of Rs.25,000/-, in default to undergo two years rigorous imprisonment.
The aforesaid sentences were ordered to run concurrently.		



3. The one factor that plays in our mind is that the victim is mentally unsound, which condition made her extremely difficult to express herself during trial.

4. The learned counsel for the petitioner stated that originally the chief examination of the victim was conducted in the year 2017, during which, she did not allege any sexual offence against the petitioner, but, later in her evidence, when she was recalled, according to the petitioner, to fill up the lacuna, the evidence relating to sexual offence has been stated.

5. These are the aspects, which can be dealt with during the course of hearing of the criminal appeal. But, the primary balancing factor *viz.* if the petitioner is released on bail and if the sentence is suspended and the resultant impact it would have on the victim child forces us to dismiss the present petition.

6. We are conscious of the fact that the judgment is of the year 2022 and the present petition has been filed nearly after a year of detention. It will however only be appropriate that the interest of the victim child is also kept in mind. Hence, we are unable to grant suspension of sentence to the petitioner.



Trial of Cases under Section POCSO Act, Chengalpattu, to forward the original records on or before 31.07.2023 and if the records are forwarded to this Court, the learned counsel for the petitioner can make a mention to the Registry to list the criminal appeal itself for final hearing.

(C.V.K.,J.) (S.K.R.,J.)
17.05.2023

nsd/sma

To

- 1.The Sessions Judge,
Special Court for Exclusive Trial
of Cases under Section POCSO Act,
Chengalpattu.
- 2.The Inspector of Police,
All Women Police Station,
Melmaruvathur Police Station,
Chengalpattu District.
- 3.The Public Prosecutor,
Madras High Court,
Chennai – 600104.



WEB COPY

Crl.M.P.No.4565 c
in Crl.A.No.352 c



C.V.KARTHIKEYAN, J.
AND
SENTHILKUMAR RAMAMOORTHY, J.

nsd

Crl.M.P.No.4565 of 2023
in Crl.A.No.352 of 2023

17.05.2023