



Crl.M.P.No.2203 of 2023 in Crl.A.No.151 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.M.P.No.2203 of 2023

in

Crl.A.No.151 of 2023

Madhankumar

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Race Course Police Station,
Coimbatore City,
Coimbatore.
(Crime No.857 of 2020)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C. to suspend the sentence imposed in Spl.C.C.No.102 of 2020 passed by the learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore and enlarge the petitioner on bail pending disposal of the Criminal Appeal

For Petitioner

: Mr.R.Vivekananthan

For Respondent

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



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ORDER

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The petitioner, who is an accused in Spl.C.C.No. 102 of 2020 on the file of the learned Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Coimbatore, seeks suspension of his sentence of imprisonment.

2. The Trial Court, vide judgment dated 23.01.2023, convicted the accused for the offence punishable under Sections 363 I.P.C., and 5(i) r/w.6 of POCSO Act and sentenced him as under:

Conviction under Section	Sentence
Section 363 I.P.C.	Rigorous Imprisonment for 5 years with a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for 6 months.
Section 5(i) r/w.6 of POCSO Act	Rigorous Imprisonment for 20 years with a fine of Rs.20,000/-, in default, to undergo Simple Imprisonment for 1 year.

3. Challenging the conviction and sentence slapped by the Trial Court, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the victim girl



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and the accused are having love affair and the victim girl eloped with the petitioner. The case has been registered in pursuance of the complaint given by the mother of the victim girl. After investigation, final report has been filed. He further submitted that there are arguable points in this Appeal and the petitioner is under custody. Hence, prayed for suspension of sentence.

5. Heard the learned Government Advocate (Crl. Side) appearing for the respondent and perused the impugned judgment and the materials on record.

6. Taking into consideration of the above submission of the learned counsels appearing on both sides, 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.

7. Accordingly, it is ordered as follows.



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(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) with two sureties each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Coimbatore..*

(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.

15.02.2023

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To

1. The Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Coimbatore.

2. The Superintendent, Central Prison, Coimbatore.

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3.The Inspector of Police,
Race Course Police Station,
Coimbatore City,
Coimbatore.

4. The Public Prosecutor,High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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