



Crl.M.P.No.2661 of 2023 in Crl.A.No.176 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.2661 of 2023

in

Crl.A.No.176 of 2023

1. Vinothraj
2. Panneerselvam ... Petitioners
/vs/

The State, represented by
The Inspector of Police,
Kattumannarkoil Police Station,
Kattumannarkoil, Cuddalore District.
Cr.No.340 / 2020 .. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) of Cr.P.C., to suspend the conviction and sentence imposed on the petitioners in Spl.S.C.No.38 of 2020, dated 29.12.2022 on the file of the Special Court (POCSO) Act, Cuddalore, Cuddalore District, pending disposal of the criminal appeal and enlarge him on bail.

For Petitioner ... Mr. C. Prakasam
For Respondent ... Mr.C.E.Pratap, GA (crl.side)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the conviction and sentence imposed on the petitioners in



Spl.S.C.No.38 of 2020, dated 29.12.2022 on the file of the Special Court (POCSO) Act, Cuddalore, Cuddalore District and enlarge him on bail. and enlarge the petitioners on bail, pending disposal of the above appeal.

2. The petitioners, who are A1 and A2 in Spl.S.C.No.38 of 2020 were convicted and sentenced by the trial court, by its judgment dated 29.12.2022 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1 and A2	U/s.4 of Women Harassment Act	Each to undergo 3 years RI and a fine of Rs.10,000/-, in default in payment of fine, each to undergo 3 months SI.
	U/s.9(g), r/w.10 of POCSO Act, 2012	Each to undergo 7 years RI and a fine of Rs.2,000/-, in default in payment of fine, each to undergo 3 months SI
	U/s.294(b) IPC	Each to pay a fine of Rs.500/-, in default, each to undergo SI for one month
		Acquitted from the charges framed u/s.506(2), 341 of IPC.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioners by the trial court, the petitioners have filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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4. The learned counsel for the petitioners submitted that the learned counsel for the petitioners submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. The case of the prosecution is that the petitioners have attempted to outrage the modesty of the deceased victim girl and also threatened her. There is no sexual assault made by the petitioners and they are in judicial custody from 29.12.2022. He would further submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Govt. Advocate (crl.side) submitted that the 2nd petitioner is having 12 criminal cases and objected to suspend the sentence in respect of 2nd petitioner. He further submitted that with regard to 1st petitioner, there is no previous criminal cases pending against him.

6. At this juncture, learned counsel for the petitioner submitted that he is not pressing this petition in respect of 2nd petitioner.



7. Heard the learned counsel for the petitioners and learned Govt. Advocate (crl.side) and perused the complaint, FIR and other material evidence available on record.

8. As the learned counsel for the petitioners submitted that he is not pressing this petition in respect of 2nd petitioner and also made an endorsement to that effect in the court bundle, this petition in respect of 2nd petitioner, is dismissed as withdrawn.

9. On perusal of evidence, in respect of 1st petitioner, there is only an allegation of harassment of the deceased child. The 1st petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the 1st petitioner is entitled to the relief of suspension of sentence and bail.

10. Accordingly, the relief of suspension of sentence and bail is granted to the 1st petitioner on the following conditions:

- (i) The 1st petitioner is ordered to be released on bail on executing 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 Special Court (POCSO) Act, Cuddalore, Cuddalore District.

(ii) The 1st petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the above said Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;

(iii) The 1st petitioner shall appear before the trial Court as and when required.

02.03.2023

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To

1. The Special Court (POCSO) Act, Cuddalore, Cuddalore District
2. The Inspector of Police,
Kattumannarkoil Police Station,
Kattumannarkoil, Cuddalore District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison,
Cuddalore.

V.SIVAGNANAM, J.



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