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Crl.MP.No.4071 of 2023
in Crl.A.No.297 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.4071 OF 2023

IN

CRL.A.NO.297 OF 2023

Sundar Raj

... Petitioner

Vs.

State Rep. By
The Inspector of Police
Naduveerapattu Police Station
Cuddalore District.
(Crime No.1074/2020)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) and 439 of Cr.P.C. to suspend the sentence imposed on the petitioner / appellant in Spl.S.C.No.26 of 2021 dated 27.10.2022, Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, pending disposal of the above said Criminal Appeal.

For Petitioner : Ms.D.Shobana

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

The petitioner, who is an accused in Spl.S.C.No.26 of 2021 on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, seeks suspension of his sentence of imprisonment.

2.The Trial Court, by judgment dated 27.10.2022, passed in Spl.S.C.No.26 of 2021, convicted the petitioner for the offences punishable under Sections 366 IPC and Sections 3 and 4 of POCSO Act, 2012 and sentenced him as extracted hereunder.

<i>Conviction under Section</i>	<i>Sentence</i>
Sec.366 IPC	10 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months Simple Imprisonment.
Sec.3 and 4 of POCSO Act, 2012	7 years Rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months simple imprisonment.
The above said sentence of imprisonments were ordered to run concurrently.	

3.Challenging the judgment of conviction and sentence, the petitioner preferred the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4.The learned counsel for the petitioner submitted that there is a



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love affair between the petitioner and the victim and it is deposed by the victim herself before the Trial Court that she had love affair with the accused.

Hence, there are arguable points in this Criminal Appeal. He further submitted that now the petitioner is in judicial custody from 27.10.2022 and thus, prays for suspension of sentence.

5.The learned Additional Public Prosecutor for the respondent also admits that there is a love affair between the accused and the victim.

6.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the impugned judgment and the materials available on record.

7.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.

8. Accordingly, this Criminal Miscellaneous Petition 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.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore.

(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.

21.03.2023

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TK

To

1.The Sessions Judge

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Special Court for Exclusive Trial of Cases
under POCSO Act,
Cuddalore.

- 2.The Superintendent
Central Prison
Cuddalore.
- 3.The Public Prosecutor
High Court of Madras
Chennai.



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V.SIVAGNANAM, J.

TK

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