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Crl.M.P.No.4183 of 2023 in Crl.A.No.306 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.4183 of 2023

in

Crl.A.No.306 of 2023

Parasuraman

... Petitioner

/vs/

The Inspector of Police,
Ulunthurpet All Women Police
Station, Villupuram District.
(Cr.No.2/2022)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioner by the Spl.S.C.No.59 of 2022 on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, dated 30.09.2022 and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

For Petitioner ... Mr.P.Muthamizh Selvakumar

For Respondent ... Mr.A. Gokulakrishnan
APP

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by the Spl.S.C.No.59 of 2022 on the file of Special Court for Exclusive Trial of Cases under POCSO



Act, Villupuram, dated 30.09.2022 and enlarge the petitioner on bail, pending disposal of the above criminal appeal.

2. The petitioner, who is the sole accused in Spl.S.C.No.59 of 2022 is convicted and sentenced by the trial court, by its judgment dated 30.09.2022 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.9(m) r/w.sec.10 of POCSO Act, 2012	To undergo 5 years RI and to pay a fine of Rs.10,000/-, in default in payment of fine, to undergo 3 months SI
		Acquitted from the charge u/s.506(i) and 323 (2 counts) IPC

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.59 of 2022, the petitioner has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. The mother of the victim girl PW1 and victim girl PW2 were treated by the persecution as hostile witnesses. There is no medical evidence to



show that the victim girl had sustained injuries on her private parts or in any part of her body. Therefore, there are arguable points in this appeal and the petitioner has every chance to succeed in this appeal. Further, the petitioner has paid the fine amount as imposed by the trial court and he is under judicial custody from 30.09.2022. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Addl. Public Prosecutor appearing for the respondent, on the other hand, supporting the impugned order, objected to grant suspension of sentence imposed on the petitioner. However, he fairly conceded that no medical evidence is produced by the prosecution to show the injuries sustained by the victim girl and PW1-victim girl's mother and PW2-victim girl were treated by the prosecution as hostile witnesses.

6. Heard the learned counsel for the petitioner and the learned Addl. Public Prosecutor appearing for the respondent and perused the impugned order and materials available on record.

7. On perusal of records, the petitioner was prosecuted by the respondent police on the complaint of PW1-victim girl's mother, after trial,



the trial court by its impugned judgement convicted and sentenced the petitioner as stated above. Perusal of records would further reveal that the evidence of PW1 and PW2 were treated by the prosecution as hostile witnesses and also there is no medical evidence to show any injuries on the private part of the victim girl. In the circumstances, the 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. Considering the nature of the offence and the petitioner is under incarceration from 30.09.2022 and there are arguable points in favour of the petitioner, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

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

- (i) The 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 the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.
- (ii) The petitioner and the sureties shall affix their



photographs and Left Thumb Impression in the surety bonds and the abovesaid Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;

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

27.03.2023

msr

To

- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram.
2. The Inspector of Police,
Ulunthurpet All Women Police
Station, Villupuram District.
- 3.The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison,
Cuddalore.



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V.SIVAGNANAM, J.

msr

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