



WEB COPY



Crl.MP.No.3859 of 2022
in Crl.A.No.331 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.3859 OF 2022

IN

CRL.A.NO.331 OF 2022

P.Selvaraj

... Petitioner

Vs.

State by
Inspector of Police
W-2, All Women Police Station
Triplicane, Chennai.
(Crime No.08/2018)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence in the judgment dated 28.02.2022 in S.C.No.89 of 2019 passed by the learned Sessions Judge, Special Court of Exclusive Trial of Cases by convicting the appellant / accused under Section 6 of POCSO Act r/w 376(3) IPC r/w 42 of POCSO Act @ u/s. 4 of POCSO Act r/w 373 (3) of IPC r/w 42 of POCSO Act and sentencing him to undergo accordingly for the charge u/s. 376(3) IPC sentenced to undergo Rigorous Imprisonment for 20 years and imposed with a fine of Rs.5,000/- in default to undergo further period of 3 months Simple Imprisonment and the period undergone by the accused is ordered to be set-off u/s. 428 Cr.P.C. and the petitioner may be enlarged on bail.

1/6



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For Petitioner : Mr.V.Parthiban

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

The petitioner, who is an accused in S.C.No.89 of 2019 on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, seeks suspension of his sentence of imprisonment.

2.The Trial Court, by judgment dated 28.02.2022, passed in S.C.No.89 of 2019, convicted the petitioner for the offences punishable under Section 6 of POCSO r/w 376(3) IPC r/w 42 of POCSO Act @ u/s. 4 of POCSO ACT r/w 376(3) IPC r/w 42 of POCSO Act, 2012 and sentenced him as extracted hereunder.

<i>Conviction under Section</i>	<i>Sentence</i>
Sec.376(3) IPC	20 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 3 months Simple Imprisonment.
The period already undergone by the petitioner / accused was ordered to be set off under section 428 Cr.P.C.	

3.Challenging the judgment of conviction and sentence, the



Crl.MP No.3859 of 2022
in Crl.A.No.331 of 2022

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 love affair between the petitioner and the victim and the deposition of P.W.3 clearly disclose the fact that the victim had love affair with the petitioner. Hence, there are arguable points in this Criminal Appeal. He further submitted that now the petitioner is in judicial custody from 28.02.2022 and thus, prays for suspension of sentence.

5.The learned Additional Public Prosecutor for the respondent though objected to suspend the sentence imposed on the petitioner, he conceded the fact 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



Crl.MP No.3859 of 2022
in Crl.A.No.331 of 2022

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.

(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, Chennai.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the



Crl.MP No.3859 of 2022
in Crl.A.No.331 of 2022

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.

31.03.2023

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TK

To

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



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V.SIVAGNANAM, J.

TK

CRL.MP.NO.3859 OF 2022
IN CRL.A.NO.331 OF 2022

31.03.2023

(2/2)