

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.No.3425 of 2023
in Crl.A.No.253 of 2023

Jeyapal

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Neelangarai Police Station,
Chennai District.
(Crime No.1618 of 2013
Respondent

...

Prayer: Criminal Miscellaneous Petition filed under Section 389(2) of Criminal Procedure Code to suspend the execution of sentence imposed on the petitioner / appellant by the judgment of the learned Sessions Judge of Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu in New.Spl.S.C.No.12 of 2019 (Old Spl.S.C.No.19 of 2016) dated

23.02.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.G.Balamanikandan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the execution of sentence imposed on the petitioner / appellant by the judgment of the learned Sessions Judge of Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu in New.Spl.S.C.No.12 of 2019 (Old Spl.S.C.No.19 of 2016) dated 23.02.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The petitioner, who is the sole accused in New Spl.S.C.No.12 of 2019 (Old Spl.S.C.No.19 of 2016), is convicted and sentenced by the trial court, by its judgment dated 23.02.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole Accused	U/s.9(m) r/w 10 of POCSO Act.	To undergo 5 years RI and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment period for six months.
		Acquitted from the charge u/s.294(b), 506(i) IPC
The sentence of imprisonments imposed on the petitioner was ordered to run concurrently		

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in New Spl.S.C.No.12 of 2019 (Old Spl.S.C.No.19 of 2016), 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 petitioner was prosecuted by the respondent police for the offences under Section 9(m) r/w 10 of POCSO Act and under Sections 294(b), 506(i) of IPC. After trial, he was convicted under Section 9(m) r/w 10 of POCSO Act and is sentenced to undergo Rigorous Imprisonment for 5 years and to pay fine of Rs.5000/- and in case of default, to undergo Simple Imprisonment for 6 months.

According to the prosecution, the accused pinched the victim girl in her cheek. The victim girl (PW2) recorded her statement under Section 164(5) of Cr.P.C has clearly stated only that the accused pinched her cheek. There is no medical evidence of the injuries sustained by the victim girl and P.W.3 not supported the prosecution case. Only 4 witnesses have been examined. P.W.2 is the mother of the victim, P.W.3 is the victim. Accordingly, there is an arguable point in favour of the accused. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. Heard learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6. The learned Additional Public Prosecutor submitted that the allegation levelled against the petitioner is that he pinched the victim girl. Accordingly, he is in custody from 23.02.2023.

7. On perusal of records the allegation levelled against the petitioner is

he pinched the victim girl, that no medical evidence is produced by the prosecution to show that any injuries sustained by the victim girl. Considering the nature of the offence and the allegation there is an arguable point in favour of the accused.

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, Chengalpattu.
- (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.

08.03.2023
(1/2)

rna

To

- 1.The Inspector of Police,
Neelangarai Police Station,
Chennai District.
- 2.The Superintendent, Central Prison,
Puzhal.
- 3.The Public Prosecutor, High Court, Madras.

Crl.MP No.3425 of 2023 in Crl.A.No.253 of 2023

V.SIVAGNANAM, J.

rna

Crl.M.P.No.3425 of 2023
in Crl.A.No.253 of 2023

08.03.2023