



WEB COPY



Crl.MP.No.4898 of 2023
in Crl.A.No.381 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.4898 OF 2023
IN CRL.A.NO.381 OF 2023

Sekar

... Petitioner

Vs.

The State of Tamilnadu
Represented by Inspector of Police
H-6, R.K.Nagar Police Station,
W-13, All Women Police Station,
Tondiarpet, Chennai – 600 081.
(Crime No.312 of 2018)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed as against the petitioner in S.C.No.120 of 2019 dated 20.12.2022 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai – 600 104 and grant bail to the petitioner pending disposal of the main Criminal Appeal.

For Petitioner : Mr.S.Sathish Rajan

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



Crl.MP No.4898 of 2023
in Crl.A.No.381 of 2023

ORDER

WEB COPY

The petitioner, who is an accused in S.C.No.120 of 2019 seeks to suspend the sentence imposed on him in the judgment dated 20.12.2022 passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai – 600 104 and to enlarge him on bail, pending disposal of the main Criminal Appeal.

2.The Trial Court, by judgment dated 20.12.2022, passed in S.C.No.120 of 2019, convicted the petitioner for the offence punishable under Section 4 of POCSO Act, 2012 and sentenced him to undergo imprisonment for seven years with a fine of Rs.5,000/- in default to undergo simple imprisonment for one month. The period already undergone by the accused is ordered to be set off under Section 428 Cr.P.C.

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



Crl.MP No.4898 of 2023
in Crl.A.No.381 of 2023

WEB COPY

4.The learned counsel for the petitioner submitted that the Doctor, who examined the victim as well as the petitioner herein, deposed that there are no injuries found on the body of the victim and gave opinion that the accused is not in the habit of sexual intercourse with the male persons. Under such circumstances, there are some arguable points in favour of the petitioner in the Criminal Appeal. He further submitted that now the petitioner is confined at Central Prison, Puzhal, Chennai.

5.The learned Additional Public Prosecutor for the respondent objected to suspend the sentence imposed on the petitioner. However, he admits the petitioner is confined at Central Prison, Puzhal, Chennai.

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.On perusal of the evidence of the Doctors P.W.7. and P.W.8, it is noticed that the Doctors recorded no injuries on the private part of the



Crl.MP No.4898 of 2023
in Crl.A.No.381 of 2023

victim boy. The Doctors also opined that the petitioner is not having the habit of sexual intercourse with the male members. Taking into consideration of the 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, till the disposal of the Criminal Appeal, the suspension of sentence and bail are granted, on the following conditions:-

(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 – 600 104.

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



Crl.MP No.4898 of 2023
in Crl.A.No.381 of 2023

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.

26.04.2023

(2/2)

TK

To

- 1.The Sessions Judge
Special Court for Exclusive Trial of Cases under POCSO Act,
Chennai – 600 104.
- 2.The Inspector of Police
H-6, R.K.Nagar Police Station,
W-13, All Women Police Station,
Tondiarpet, Chennai – 600 081.
- 3.The Superintendent
Central Prison
Puzhal, Chennai.
- 4.The Public Prosecutor
High Court of Madras

5/6



WEB COPY



CrL.MP No.4898 of 2023
in CrL.A.No.381 of 2023

V.SIVAGNANAM, J.

TK

CRL.MP.NO.4898 OF 2023
IN CRL.A.NO.381 OF 2023

26.04.2023

(2/2)