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Crl.MP.No.6444 of 2023
in Crl.A.No.526 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.6444 OF 2023

IN

CRL.A.NO.526 OF 2023

R.Ahmmed

... Petitioner

Vs.

The State of Tamil Nadu
Rep. By Inspector of Police
W-16, All Women Police Station
Puliyanthope, Chennai.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence imposed on the petitioner made in Special Sessions Case No.47 of 2021 dated 30.06.2022 on the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and to release the petitioner on bail pending disposal of the petition.

For Petitioner : Mr.H.Manojin

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

The petitioner, who is the accused in Spl.SC.No.47 of 2021 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 30.06.2022, passed in Spl.SC.No.47 of 2021, convicted the petitioner for the offences punishable under Section 366 IPC read with Section 10 of POCSO Act, 2012 and sentenced him as extracted hereunder.

<i>Conviction under Section</i>	<i>Sentence</i>
U/s.366 IPC	Five years imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for one month
U/s.10 of POCSO Act, 2012	Five years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one month Simple Imprisonment.
The period already undergone by the petitioner / accused is ordered to be set off under section 428 Cr.P.C. Both the sentences are ordered to run concurrently.	

3.Challenging the judgment of conviction and sentence, the



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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 the petitioner has been falsely implicated in this case by the respondent police and a case has been registered against him on 12.10.2020 for the offences punishable under Section 9(m), 10, 11(2) and 12 of the Protection of Child from Sexual Offences Act, 2012. After investigation, final report has been filed against the petitioner under Section 363 IPC read with Section 9(m) r/w. 10, 11 (ii) r/w. 12 of POCSO Act. After trial, the learned Trial Judge has convicted him under Section 366 IPC and sentenced to undergo five years imprisonment with a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for one month and under Section 10 of POCSO Act, 2012 and sentenced to undergo five years Rigorous Imprisonment with a fine of Rs.5,000/-, in default, to undergo one month Simple Imprisonment. Hence, there are arguable points in this Criminal Appeal. He further submitted that the petitioner is in incarceration from 12.10.2020 onwards and thus, prays for



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suspension of sentence.

5.The learned Additional Public Prosecutor for the respondent strongly objected to suspend the sentence imposed on the petitioner.

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.

(i) The substantive sentence of imprisonment



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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 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.

06.06.2023

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V.SIVAGNANAM, J.

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-16, All Women Police Station
Puliyanthope, Chennai.
- 4.The Public Prosecutor
High Court of Madras, Chennai.

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