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Crl.M.P.No.5801 of 2023 in Crl.A.No.465 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5801 of 2023

in

Crl.A.No.465 of 2023

Mrs.Vishwadharshini

.. Petitioner

/vs/

1. The State represented by
Inspector of Police,
Cyber Crime Cell,
Central Crime Branch,
Vepery, Chennai 600 007.
2. The Inspector of Police,
W-23, all women Police Station,
Royapettah, Chennai
(Cr.No.05/2018)

.. Respondents

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence passed against the appellant in S.C.No.301 of 2019, dated 30.03.2023 passed by the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Cases, Chennai and enlarge the petitioner on bail, till the disposal of the appeal.

For Petitioner ... Mr. M. Mohanasundaram

For Respondents ... Mr.A.Gokulakrishnan, APP



ORDER

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2. The petitioner, who is the sole accused in S.C.No.301 of 2019 is convicted and sentenced by the trial court, by its judgment dated 30.03.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.67B(b) of IT Act, 2000	To undergo imprisonment for 3 years and to pay a fine of Rs.1,00,000/-, in default in payment of fine, to undergo SI for a period of 3 months.

The petitioner is acquitted from the charges under section 67A of IT Act, 2000, Section 509 of IPC and Section 12 of POCSO Act.

3. Aggrieved over the judgment of conviction and sentence imposed on



the petitioner by the trial court, she 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. As per the case of prosecution, the petitioner has depicted PW1 in obscene manner in her facebook account. The trial court failed to consider that the mother of PW1 was using PW1 as a tool to settle her personal score with the petitioner. He further submitted that the screenshots of a facebook account is not a reliable evidence, as it can be manipulated by any person against another, thus the prosecution has miserably failed to prove the guilt of the accused beyond all the reasonable doubts. Thus, there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Further, the petitioner is under judicial custody and the fine imposed by the trial court was paid. Therefore, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner has posted obscene messages



about the victim child in her facebook account. However, he fairly conceded that the offence against her under POCSO Act is not proved and she was acquitted from the charge under POCSO Act.

6. Heard learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the impugned judgment and other materials available on record.

7. On perusal of records, it is seen that 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 and the entire fine amount imposed by the trial court has been paid, 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



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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 Cases, Chennai.

(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.

25.04.2023

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To

- 1.The Sessions Judge, Special Court for exclusive trial of Cases under POCSO Cases, Chennai.
2. The Inspector of Police,
Cyber Crime Cell,
Central Crime Branch,
Vepery, Chennai 600 007.
3. The Inspector of Police,
W-23, all women Police Station,
Royapettah, Chennai
- 4.The Public Prosecutor, High Court, Madras.
5. The Superintendent,
Special Prison for Women,
Puzhal, Chennai

V.SIVAGNANAM, J.



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