



Crl.M.P.No.5810 of 2023 in Crl.A.No.466 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5810 of 2023

in

Crl.A.No.466 of 2023

Mohamed Beer Basha

... Appellant

/vs/

The Inspector of Police,
Podhanur Police Station,
Coimbatore.

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) of Cr.P.C., to suspend the sentence, dated 21.03.2023 awarded against the appellant in Special Sessions Case No.93 of 2020 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act at Coimbatore and enlarge the appellant/Appellant on bail, pending disposal of the above appeal.

For Appellant

... Mr. C.D.Sukumar

For Respondent

... Mr.A.Gokulakrishnan,
Additional Public Prosecutor



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence, dated 21.03.2023 awarded against the appellant in Special Sessions Case No.93 of 2020 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act at Coimbatore and enlarge the appellant on bail, pending disposal of the above appeal.

2. The appellant, who is the sole accused in Special Sessions Case No.93 of 2020 is convicted and sentenced by the trial court, by its judgment dated 21.03.2023 as follows;

<i>appellant's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	Section 11[iv] punishable under section 12 of POCSO Act	To undergo two years SI and a fine of Rs.5,000/-, in default in payment of fine, to undergo 3 months SI
	U/s.506[i] of IPC	To undergo 1 year SI and a fine of Rs.1,000/-, in default in payment of fine, to undergo 1 month SI

3. Aggrieved over the judgment of conviction and sentence imposed on the appellant in Special Sessions Case No.93 of 2020, the appellant has filed the present criminal appeal, along with the instant miscellaneous



petition, seeking suspension of sentence and bail.

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4. The learned counsel for the appellant would submit that the trial Court failed to consider the delay in filing the First Information report and the fact that the alleged love letter issued by the accused to the victim does not contain the signature of the accused and the hand writing expert has not been examined as a prosecution witness. He would further submit that there are arguable points in this appeal and the appellant has every chance to succeed in this Criminal appeal and thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. Heard the learned counsel for the appellant and learned Additional Public Prosecutor and perused the complaint, FIR and evidence of victim girl and other material evidence available on record.

6. On a perusal of the prosecution evidence, it is noticed that the alleged love letter issued by the accused to the victim does not contain the signature of the accused and the hand writing expert has not been examined before the trial Court to establish the report issued by the hand writing expert. Therefore, the appellant 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. In such view of the matter, this Court is of the view that the appellant is entitled to the relief of suspension of sentence imposed on the appellant.

7. Accordingly, the relief of suspension of sentence and bail is granted to the appellant on the following conditions:

(i) The substantive sentence of imprisonment alone is suspended and the appellant shall surrender before the concerned Court within two weeks from the date of receipt of a copy of this order and on such surrender, the appellant is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties each for a like sum to the satisfaction of the Trial Court;

(ii) The appellant and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;



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(iii) The appellant shall appear before the trial Court as and when required.

26.04.2023

vrc

To

1. The Principal Special Court for Exclusive Trial of Cases under POCSO Act at Coimbatore.
2. The Inspector of Police,
Podhanur Police Station, Coimbatore.
3. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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