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Crl.M.P.No.6281 of 2023 in Crl.A.No.510 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.6281 of 2023

in

Crl.A.No.510 of 2023

Sukumar

...
/vs/

Petitioner

The State Rep. by
The Inspector of Police,
All Women Police Station,
Arani, Thiruvannamalai District.

...

Respondent

Prayer : Criminal Miscellaneous Petition has been filed under section 389 [1] of Cr.P.C. to suspend the sentence imposed on the petitioner in Special S.C.No.87 of 2020 on the file of the learned Special Court, POCSO Cases, Tiruvannamalai, dated 07.03.2023 and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner

...

Mr.B.Jawahar

For Respondent

...

Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 07.03.2023 imposed on the petitioner in Special S.C.No.87 of 2020 on the file of the Special Court, POCSO Cases, Tiruvannamalai and enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner, who is the sole accused, has been prosecuted by the respondent police for the offences under section 10 read with 9[m] of POCSO Act 2012 and Section 376 [AB] read with 375-b and Section 6 read with 5[m] of POCSO Act 2012 in Special S.C.No.87 of 2020 and after trial, the petitioner is convicted and sentenced by the trial court, by its judgment dated 07.03.2023 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.10 read with 9[m] of POCSO Act	To undergo 7 years RI and pay a fine of Rs.1,000/-, in default in payment of fine, to undergo 1 year SI

The period of detention already undergone by the accused from 09.05.2020 to 14.08.2020 is ordered to be set off under section 428 Cr.P.C. However, the petitioner was found not guilty under section 376 [AB] read with 375-b of IPC and Section 6 read with 5[m] of POCSO Act 2012 and acquitted from the above sections.



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3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Special S.C.No.87 of 2020, 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 submitted that the case of the prosecution is disproved by the medical evidence and P.W.6 Doctor in her chief examination stated that she had not found any injury in the private parts of the victim girl. It is further submitted that due to some other dispute a false complaint has been given against the petitioner/accused and there are arguable points in favour of the petitioner. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5.The learned Additional Public Prosecutor appearing for the respondent, supporting the impugned judgment, objected to suspend the sentence imposed on the petitioner.

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



7. On a perusal of the impugned judgment and the evidence of PW6 Doctor, it is noticed that the doctor deposed that she had not found any injury in the private parts of the victim girl. Hence, this Court is of the view 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. In such view of the matter, 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 his 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 Special Court, POCSO Cases, Tiruvannamalai;
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the above said Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;



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

28.04.2023

Index : Yes/No

Internet: Yes/No

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Note: Issue order copy on 03.05.2023

To

1. The Sessions Judge,
Special Court, POCSO Cases, Tiruvannamalai
2. The Inspector of Police,
All Women Police Station,
Arani, Tiruvnnamalai District.
3. The Superintendent, Central Prison, Vellore.
4. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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