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Crl.M.P.No.8618 of 2023 in Crl.A.No.663 of 2023

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V. SIVAGNANAM, J.

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners in Spl. S.C.No.32 of 2019 dated 09.03.2023 by the Sessions Judge, POCSO Court, Thiruvannamali and enlarge the petitioner on bail.

2. The learned counsel for the petitioner submitted that the petitioner has been prosecuted for the offences punishable under sections 451, 34 of IPC and Section 9[g], [i] read with 10 of POCSO Act 2012 and Section 376 [D] read with 511 of IPC and Section 5[g] [i] read with section 6 read with section 18 of POCSO Act 2012. After trial, the trial Court by its judgment dated 09.03.2023 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole	Section 451 of IPC	To undergo RI for 2 years and pay a fine of Rs.500/-, in default in payment of fine, to undergo further 2 months SI
	Section 354 of IPC	To undergo RI for 1 year and pay a fine of Rs.500/- in default in payment of fine to undergo further 1 month SI



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<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
	U/s.9 [g], [i] read with 10 of POCSO Act, 2012	To undergo RI for 7 years and pay a fine of Rs.500/- in default in payment of fine to undergo further 1 year SI
	U/s.376[D] r/w.511 and Section 5[g], [i] r/w.6 r/w 18 of POCSO Act 2012	To undergo RI for 10 years and pay a fine of Rs.500/- in default in payment of fine to undergo further 1 year SI

Total fine amount Rs.2000/- The sentences are to run concurrently the detention period already undergone by the accused from 13.04.2017 to 25.05.2017 is Ordered to be set off under section 428 Cr.P.C.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Sessions Case No.32 of 2019, 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 petitioner would further submit that there are several contradictions in evidence of prosecution witnesses and there is no evidence for penetrative sexual assault. Therefore, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Government Advocate Criminal Side submitted that



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P.W.7 Doctor, who treated the victim, has found injuries on the lips of the victim and hence, opposed for granting suspension of sentence to the petitioner.

6. Heard the learned counsel for the petitioner and learned Government Advocate [Criminal Side] and perused the complaint, FIR and evidence of the witnesses and other material evidence available on record.

6. On a perusal of the impugned judgment and records, it is noticed that the petitioner is an accused in S.C.No.32 of 2019 on the file of the Sessions Judge, POCSO Court, Tiruvannamalai for the offences punishable under sections 451, 34 of IPC and Section 9[g], [i] read with 10 of POCSO Act 2012 and Section 376 [D] read with 511 of IPC and Section 5[g] [i] read with section 6 read with section 18 of POCSO Act 2012 and after trial, the petitioner has been convicted as stated above. I have gone through the evidence of the victim P.W.3 and Doctor, P.W.7, who treated the victim girl. Under these circumstances, I find no case to grant suspension of sentence to the petitioner and there is no merits in this petition and I am not inclined to suspend the sentence imposed on the petitioner.

7. Accordingly, this Criminal Miscellaneous Petition is dismissed.



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26.06.2023