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Crl.M.P.No.7958 of 2023 in Crl.A.No.625 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.7958 of 2023
in Crl.A.No.625 of 2023

Pakkirisamy

... Petitioner

/vs/

The Inspector of Police,
All Women Police Station,
Nagapattinam,
Nagapattinam District.
Crime No.15 of 2018

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the execution of the sentence against the petitioner/accused in Spl.S.C.No.44 of 2018 on the file of the learned Special Court under POCSO Act, Nagapattinam dated 23.03.2021 and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner

... Mr. P. Muthamizh Selvakumar

For Respondent

... Mr.R.Vinothraja, GA (crl.side)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 23.03.2021 imposed on the petitioner in



Spl.S.C.No.44 of 2018 on the file of the learned Sessions Judge, Special Court under POCSO Act, Nagapattinam and enlarge the petitioner/appellant on bail, pending disposal of the above Criminal Appeal.

2. The petitioner, who is the sole accused in Spl.S.C.No.44 of 2018 is convicted and sentenced by the trial court, by its judgment dated 23.03.2021 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.10 r/w 9(m) of POCSO Act.	To undergo 7 years RI and a fine of Rs.10,000/-, in default in payment of fine, to undergo SI for a period of 1 year.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.44 of 2018, 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 submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. He further submitted that the only allegation against the petitioner is that he has misbehaved with the victim girl. He is in judicial custody from 23.03.2021. The victim girl and the accused are the neighbours. Thus, he would further submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. The learned Government Advocate (Crl.Side) appearing for the respondent objected to suspend the sentence and grant bail to the petitioner. He further submitted that the allegation against the petitioner is that he has misbehaved with the victim girl.

6. Heard learned counsel for the petitioner and the learned Govt. Advocate (crl.side) appearing for the respondent.



7. 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 allegation and there is no allegation of aggravated sexual assault upon the victim girl and also that he is in judicial custody from 23.03.2021, 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 thousand only) along with two sureties, each for a like sum, to the satisfaction of the learned Sessions Judge, Special Court under POCSO Act, Nagapattinam.

(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



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identity; and;

(iii) The petitioner shall appear before the trial Court
on first working day of every month at 10.30a.m.

13.06.2023

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To

- 1.The learned Sessions Judge, Special Court under POCSO Act,
Nagapattinam
2. The Inspector of Police,
All Women Police Station,
Nagapattinam,
Nagapattinam District.
- 3.The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Cuddalore



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V.SIVAGNANAM, J.

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