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Crl.M.P.No.6378 of 2023 in Crl.A.No.517 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.6378 of 2023

in

Crl.A.No.517 of 2023

Punniyakotti

...
/vs/

Petitioner

The State Rep. by
The Inspector of Police,
All Women Police Station,
Cheyyar, 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.30 of 2019 on the file of the Special Court, POCSO Cases, Tiruvannamalai, dated 18.11.2022 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



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 18.11.2022 imposed on the petitioner in Special S.C.No.30 of 2019 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 sections 376 and 354 of IPC and section 10 of POCSO Act 2012 in Special S.C.No.30 of 2019 and after trial, the petitioner is convicted and sentenced by the trial court, by its judgment dated 18.11.2022 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.10 POCSO Act	To undergo 5 years RI and pay a fine of Rs.1,000/-, in default in payment of fine, to undergo 3 months SI

The period of detention already undergone by the accused from 20.10.2016 to 10.11.2016 is ordered to be set off under section 428 Cr.P.C. However, the petitioner was found not guilty under sections 376 and 354 of IPC and acquitted from the above charges.



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3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Special S.C.No.30 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 submitted that the doctors, who have examined the victim, have not found any injury on the body of the victim girl. It is further submitted that 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.



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7. On a persual of the impugned judgment and the evidence of Doctors, who have examined the victim girl, it is noticed that they have not found any injury on the body 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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CrI.M.P.No.6378 of 2023 in CrI.A.No.517 of 20__

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

Index : Yes/No
Internet: Yes/No
sms

28.04.2023

Note: Issue order copy on 04.05.2023

To

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



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V.SIVAGNANAM, J.

sms

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