



Crl.M.P.No.8567 of 2023 in Crl.A.No.661 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.8567 of 2023

in

Crl.A.No.661 of 2023

Murugan

... Petitioner

/vs/

State rep. by :

The Inspector of Police,
W.17, All Women Police Station
Peravallur, Chennai – 600 082.
[Cr.No.04 of 2016]

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(i) of Cr.P.C., to suspend the sentence imposed in Sessions Case No.29 of 2018 dated 30.06.2022 passed by the Sessions Judge, Special Court for Exclusive trial of POCSO Act, Chennai and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner ... Ms.L.Srileka

For Respondent ... Mr.R.Vinothraja
Government Advocate [Criminal Side]

**ORDER**

WEB COPY This Criminal Miscellaneous Petition has been preferred to suspend the sentence, dated 30.06.2022 imposed on the petitioner in Sessions Case No.29 of 2018 on the file of the Sessions Judge, Special Court for Exclusive trial of POCSO Act, Chennai and enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner, who is the sole accused in Sessions Case No.29 of 2018 is convicted and sentenced by the trial court, by its judgment dated 30.06.2022 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole	U/s.6 @ 10 of POCSO Act, 2012	To undergo imprisonment for 5 years and pay a fine of Rs.25,000/-, in default in payment of fine, to undergo 3 months SI

The detention period already undergone by the accused is Ordered to be set off under section 428 Cr.P.C. The fine amount has not been paid by the accused.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Sessions Case No.29 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 would submit that the respondent police prosecuted the petitioner for having committed an offence under section 6 of Protection of Children from Sexual Offences Act, 2012 and after trial, the trial Court found the accused guilty under section 10 of Protection of Children from Sexual Offences Act, 2012 and convicted him for the aforesaid offence. The learned counsel further contended that in the impugned judgment in para 23, the learned Judge had observed absence of penetrative sexual assault and in this regard, the victim has not deposed anything and the only allegation is that the accused removed her under garments and laid down on her. He further contended that the petitioner in custody from 30.06.2022 and the petitioner has every chance to succeed in this Criminal appeal. Therefore, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. 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.



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6. On a complaint given by the mother of the victim, a case has been registered against the petitioner/accused by the respondent police in Crime No.04 of 2016 for the offences under section 6 of POCSO Act. A perusal of the records, it is seen that the allegation against the accused is that he removed under garments of the victim girl and laid down on her. Considering the facts and circumstances of the case and that the petitioner is in custody from 30.06.2022, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. 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 Trial Court;

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

23.06.2023

vrc

To

1. The Sessions Judge, Special Court for Exclusive trial of POCSO Act, Chennai.
2. The Inspector of Police, W.17, All Women Police Station Peravallur, Chennai – 600 082.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Puzhal.



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V.SIVAGNANAM, J.

VRC

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