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Crl.MP.No.7266 of 2023
in Crl.A.No.566 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.7266 OF 2023

IN

CRL.A.NO.566 OF 2023

Pandiyan

... Petitioner

Vs.

The State Rep. By its
The Inspector of Police
North All Women Police Station
Tiruppur District.
Crime No.4 of 2022

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C., to suspend the sentence imposed by the order passed against the petitioner in Spl.S.C.No.40 of 2022 dated 05.05.2023 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tiruppur, and enlarge him on bail pending disposal of the above said Criminal Appeal.

For Petitioner : Mr.P.Thinesh

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

The petitioner, who is the accused in Spl.SC.No.40 of 2022 on the file of Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tiruppur, seeks suspension of his sentence of imprisonment.

2.The Trial Court, by judgment dated 05.05.2023 passed in Spl.SC.No.40 of 2022, convicted the petitioner for the offences punishable under Section 5(1) r/w. 6 of POCSO Act r/w 11(v) r/w. 12 of POCSO Act r/w. 506(i) IPC r/w. 66E of Information Technology Act, 2000 and sentenced him as extracted hereunder.

<i>Conviction under Section</i>	<i>Sentence</i>
5(1) r/w. 6 of POCSO Act	20 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one year Simple Imprisonment.
11(v) r/w. 12 of POCSO Act	3 Years Rigorous Imprisonment and to pay a fine of Rs.2,500/-, in default, to undergo six months Simple Imprisonment.
506(i) IPC	2 years Rigorous Imprisonment
66E of Information Technology Act, 2000	3 years Rigorous Imprisonment
The period already undergone by the petitioner / accused was ordered to be set off under section 428 Cr.P.C. The sentences imposed were ordered to run concurrently.	

3.Challenging the judgment of conviction and sentence, the



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petitioner preferred the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4.The learned counsel for the petitioner submitted that there is a love affair between the petitioner and the victim and the marriage proposal between the petitioner and the victim was negatived by their parents upon community / caste ground. The learned counsel for the petitioner produced some photographs taken by the victim and the petitioner on various dates, different dresses and on different poses. Under such circumstances, there are arguable points in this Criminal Appeal. He further submitted that the petitioner is in judicial custody from 03.02.2022 and thus, prays for suspension of sentence.

5.The learned Additional Public Prosecutor for the respondent though objected to suspend the sentence imposed on the petitioner, he fairly conceded the fact that there is a love affair between the accused and the victim.

6.Heard the learned counsel for the petitioner and the learned



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Additional Public Prosecutor for the respondent and perused the impugned judgment and the materials available on record.

7.Taking into consideration of the above submission of the learned counsels appearing on both sides, this Court finds that the petitioner has substantial grounds in this Criminal Appeal, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

8. Accordingly, this Criminal Miscellaneous Petition is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions



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Judge, Special Court for Exclusive Trial of Cases
under POCSO Act, Tiruppur.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

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

06.06.2023

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V.SIVAGNANAM, J.

TK

To

- 1.The Sessions Judge
Special Court for Exclusive Trial of Cases
under POCSO Act, Tiruppur.
- 2.The Superintendent
Central Prison, Coimbatore.
- 3.The Inspector of Police
North All Women Police Station
Tiruppur District.
- 4.The Public Prosecutor
High Court of Madras
Chennai.

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