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Crl.M.P.No.7686 of 2023
in Crl.A.No.619 of 2023

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S.S. SUNDAR, J.
and
SUNDER MOHAN, J.

[Order of the Court was made by **S.S. SUNDAR, J.**]

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the Sessions Judge, Principal POCSO Court, Salem, in Spl.S.C.No.48 of 2020, by judgment dated 29.03.2023 and to enlarge the petitioner/accused on bail pending disposal of the above Criminal Appeal.

2.The case of the prosecution is that, on 07.06.2020 at about 4.00 p.m., when the *de facto* complainant was near Puthukkan Temple, the accused, who was acquainted with the *de facto* complainant, came there and the *de facto* complainant asked him to recharge her Jio cellphone; that the accused also agreed and asked the *de facto* complainant to send her daughter (victim girl) along with him and stated that he will charge her cellphone and give it to her daughter; that the *de facto* complainant, who was not aware of the sexual intent of the accused, sent her younger



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WEB COPY

daughter along with the accused; that the accused, with sexual intent, cunningly spoke to the *de facto* complainant and took the victim girl along with him; that at 4.30 p.m., the accused took the victim girl to a hidden place at Garbage Grinding Godown belonging to Mettur Municipality, situated at Sarkar Thottam, and committed penetrative sexual assault on the victim girl and also caused criminal intimidation on the victim girl not to disclose the matter to anyone. Hence, the case.

3.The case was tried by the learned Sessions Judge, Principal POCSO Court, Salem, in Spl.S.C.No.48 of 2020, and ultimately, the petitioner/accused was convicted and sentenced as follows :

<i>Conviction</i>	<i>Sentence</i>
Sections 5(m) r/w.6 of POCSO Act	Rigorous Imprisonment for Life and to pay a fine of Rs.10,000/-, in default, to undergo additional Rigorous Imprisonment for 1 year
Section 506(ii) IPC	Rigorous Imprisonment for a period of 7 years
The sentences were ordered to run concurrently	

4.Challenging the above conviction and sentence, the petitioner/accused has filed the above Criminal Appeal and he is seeking suspension of sentence and bail in the present miscellaneous petition.



Crl.M.P.No.7686 of 2023
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WEB COPY

5.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6.On a careful perusal of the materials available on record, this Court does not find any *prima facie* case in favour of the petitioner to suspend the sentence imposed on him. The offence against the petitioner is serious and this Court, in the overall circumstances, is unable to find a *prima facie* case or a ground to suspend the sentence against the petitioner and release him on bail, particularly, having regard to the fact that the offence alleged and proved as against the petitioner, is committed on a minor girl of 11 years.

7.Hence, we are not inclined to suspend the sentence imposed on the petitioner. Therefore, this Criminal Miscellaneous Petition is dismissed.

(S.S.S.R., J.) (S.M., J.)
06.11.2023

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