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Crl.M.P.No.8558 of 2023 in Crl.A.No.1216 of 2022

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.8558 of 2023

in

Crl.A.No.1216 of 2022

K. Mahindran

... Petitioner

/vs/

The State represented by
the Inspector of Police,
All Women Police Station,
Arani
(Cr.No.13 of 2018)

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence imposed by the Special Court for POCSO Cases, Thiruvannamalai in Spl.S.C.No.135 of 2019, dated 22.09.2022 and enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner ... Mr. V.Pavel

For Respondent ... Mr.R. Vinoth Raja
Govt. Advocate (crl.side)



ORDER

WEB COPY This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed by the Special Court for POCSO Cases, Thiruvannamalai in Spl.S.C.No.135 of 2019, dated 22.09.2022 and enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who is the sole accused in Spl.S.C.No.135 of 2019 is convicted and sentenced by the trial court, by its judgment dated 22.09.2022 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.6 r/w.5(m) of POCSO Act, 2012	To undergo 20 years RI and a fine of Rs.1,000/-, in default in payment of fine, to undergo SI for a further period of one year

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.135 of 2019, the petitioner has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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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. There were already property disputes between the defacto complainant's family and the petitioner and in order to wreck vengeance against him, a false complaint has been lodged against him under POCSO Act. He further submitted that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. The petitioner is in under judicial custody from 22.09.2022. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5. Learned Govt. Advocate (crl.side) appearing for the respondent, supporting the impugned order, objected to grant suspension of sentence, stating that the petitioner has committed sexual assault on the minor victim girl aged about 7 years. Thus he prayed for dismissal of this petition seeking suspension of sentence.

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



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7. On perusal of records, the fact reveals that the petitioner has committed sexual assault on the minor victim girl aged 7 years. Considering the gravity of the offence and taking note of the fact that the petitioner, who is the relative of the minor victim girl has committed sexual assault on the minor victim girl aged 7 years, this court is not inclined to suspend the sentence imposed on the petitioner. Therefore, this petition is dismissed.

23.06.2023

msr

To

- 1.The Special Court for POCSO Cases, Thiruvannamalai
2. The Inspector of Police,
All Women Police Station,
Arani
3. The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.



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