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Crl.M.P.No.8056 of 2023 in Crl.A.No.632 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.8056 of 2023

in

Crl.A.No.632 of 2023

M.Sasikumar

... Petitioner

/vs/

The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai 600 020
Crime No.03 of 2021

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence passed by the learned Sessions Court Trial Judge, Special Court of Exclusive Trial of Cases under POCSO Act, Chennai, judgment dated 16.05.2023 in Spl.S.C.No.37 of 2022 and he may be enlarged on bail.

For Petitioner
For Respondent

... Mr. T.Shanmugaboopathy
... Mr.R.Vinothraja, GA (crl.side)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 16.05.2023 imposed on the petitioner in



Spl.S.C.No.37 of 2022 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

2.The petitioner, who is the sole accused in Spl.S.C.No.37 of 2022 is convicted and sentenced by the trial court, by its judgment dated 16.05.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.6 of POCSO Act.	To undergo 20 years RI and a fine of Rs.50,000/-, in default in payment of fine, to undergo SI for a period of 6 months.

3.Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.37 of 2022, 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 submitted that the judgment of the trial court is contrary to law, weight of evidence and



probabilities of the case. He further submitted that in the F.I.R, there is no allegation as stated by the victim in the evidence before the Court.

Apart from this, the victim gave evidence while she was studying 9th Standard. She narrated before the Court that the alleged occurrence took place while she was studying in the 7th standard. Thus, he would further submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this Criminal appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal appeal.

5.The learned Government Advocate (Crl.Side) appearing for the respondent objected to suspend the sentence and grant bail to the petitioner. However, he conceded the evidence of the victim that the occurrence took place while she was studying in the 7th standard.

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

7.On perusal of the evidence of the prosecution side, it is noticed that the F.I.R does not contain any allegation as deposed before the



Court. Apart from this, on perusing the evidence of the victim, it is noticed that according to the victim, the alleged occurrence took place while she was studying in 7th standard and at the time of giving evidence, she was studying in 9th standard. From the above, it appears that the complaint was given after 2 years. Under these circumstances, there is an arguable point in favour of the petitioner/Accused. 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 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 learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.



(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;

(iii) The petitioner shall appear before the trial Court **on first working day of every month at 10.30a.m.**

15.06.2023

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To

1. The learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.
2. The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai 600 020
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison-I, Puzhal, Chennai.



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V.SIVAGNANAM, J.

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