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Crl.M.P.No.8242 of 2023 in Crl.A.No.99 of 2023

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in
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V. SIVAGNANAM, J.

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners in Spl. S.C.No.262 of 2019 dated 29.12.2022 by the Sessions Judge, Principal POCSO Court, Salem and enlarge the petitioner on bail.

2. The learned counsel for the petitioner submitted that the petitioner is the second accused in the case in S.C.No.262 of 2019 complainant. On the complaint given by the mother of the victim, a case has been registered in Crime No.306 of 2018 for the offences under section 366 of IPC and Section 5[l] read with 6 and section 5[m] of Protection of Children from Sexual Offences Act 2012 as against the first accused and under section 366 IPC and Section 16 read with 17 of Protection of Children from Sexual Offences Act. After trial, the trial Court by its judgment dated 29.12.2022, convicted the accused as follows :



<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1 & A2	U/s.366 IPC	Each to undergo RI for 7 years and each to pay a fine of Rs.1,000/-, in default in payment of fine, to undergo further 1 year RI each
A1	U/s.5[1] read with 6, 5[m] read with 6 of POCSO Act	To undergo 10 years RI and pay a fine of Rs.1,000/- in default in payment of fine further period of 1 year RI for each offence
A2	U/s.16 read with 17 of POCSO Act	To undergo 1 year

Total fine amount Rs.5,000/-. The sentences imposed on the accused are to run concurrently and the detention period already undergone by the accused is Ordered to be set off under section 428 of Cr.P.C. The fine amount has been paid by the accused.

3. The learned counsel for the petitioner contended that the victim girl in her evidence has not stated anything about the involvement of the second petitioner in the crime and there are several contradictions in the evidence of prosecution witnesses. The learned counsel further contended that the petitioner is affected by paralize and he is suffering from heart ailment and he has to take proper treatment for his ailments and he is in custody from 29.12.2022 and hence, seeks to suspend the sentence imposed on the petitioner.



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4. The learned Government Advocate [Criminal Side] submitted that the petitioner along with first accused kidnapped the victim girl and the petitioner had aided the first accused in commission of the crime. The prosecution witnesses have deposed about the involvement of the petitioner in the offence and hence, prayed to dismiss this petition.

5. Heard the learned counsel for the petitioner and the learned Government Advocate [Criminal Side] for the respondent and perused the entire materials available on record.

6. On a perusal of the records and the impugned judgment, it is noticed that the petitioner is the second accused in Spl.S.C.No.262 of 2019. On the complaint given by the mother of the victim girl, the respondent police registered a case in Crime No.306 of 2018 against the accused for the above said offences. It is further noticed that the petitioner along with the first accused kidnapped the victim girl and he had abetted the first accused for commission of the offence. This is the second petition filed by the petitioner for suspension of sentence and the earlier petition filed for suspension of sentence has been dismissed as withdrawn. Considering the nature of offence against the



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petitioner, this Court is not inclined to suspend the sentence imposed on the
petitioner.

7. Accordingly, this Criminal Miscellaneous Petition is dismissed.

19.06.2023

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