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Crl.M.P.No.8547 of 2023 in Crl.A.No.653 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.8547 of 2023

in

Crl.A.No.653 of 2023

Nagaraj

... Petitioner

/vs/

The State of Tamil Nadu,
Represented by
The Inspector of Police,
Vadavalli Police Station,
Coimbatore District
Crime No.156 of 2021

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence imposed upon him by the learned Principal Special Judge, Special Court for Trial of cases under the Protection of Children from Sexual Offences Act, 2012, Coimbatore by judgment dated 31.05.2023 made in Spl.S.C.No.69 of 2021 and release him on bail.



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For Petitioner ... Mr.M.R.Thangavel

For Respondent ... Mr.R.Vinothraja, GA (crl.side)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence dated 31.05.2023 imposed on the petitioner in Spl.S.C.No.69 of 2021 on the file of the learned Principal Special Judge, Special Court for trial of Cases under the POCSO Act, 2012, Coimbatore and enlarge the petitioner/appellant on bail, pending disposal of the above Criminal Appeal.

2.The petitioner, who is the sole accused in Spl.S.C.No.69 of 2021 is convicted and sentenced by the trial court, by its judgment dated 31.05.2023 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.9(m) read with Section 10 of the Protection of Children from Sexual Offences Act, 2012	To undergo 5 years RI and a fine of Rs.10,000/-, in default in payment of fine, to undergo



<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
	Children from Sexual Offences Act, 2012.	further SI for a period of 1 year.
Sole Accused	Under Section 342 of I.P.C	To undergo 1 year RI and a fine of Rs.1,000/-, in default in payment of fine, to undergo further SI for a period of 2 months.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner in Spl.S.C.No.69 of 2021, 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. The main allegation against the accused is only 'bad touch' and not any aggravated sexual assault upon the victim girl. 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.



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5.The learned Government Advocate (Crl.Side) appearing for the respondent, on the other hand supporting the impugned order, objected to grant bail to the petitioner stating that the trial court rightly convicted and sentenced the petitioner. Thus he pleaded for dismissal of this petition.

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

7. Considering the fact that the petitioner has raised substantial grounds in the appeal which require detailed appraisal and the appeal is not likely to be taken up in the near future, 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:



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(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 Principal Special Judge, Special Court for Trial of cases under POCSO Act, Coimbatore.

(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 as and when required.

20.06.2023

srn

To

1.The learned Principal Special Judge, Special Court for Trial of cases under POCSO Act, Coimbatore.

2.The Inspector of Police,
Vadavalli Police Station,
Coimbatore District



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3.The Public Prosecutor, High Court, Madras.

4. The Superintendent, Central Prison, Coimbatore.

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V.SIVAGNANAM, J.

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