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Crl.M.P.No.8556 of 2023 in Crl.A.No.658 of 2023

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.8556 of 2023

in

Crl.A.No.658 of 2023

Saravanan

... Petitioner

/vs/

State by the Inspector of Police,
All Women Police Station,
Sooramangalam, Salem District.
[Crime No.18 of 2020]

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389 [1] of Cr.P.C., to suspend the sentence imposed on the petitioner in Spl.S.C.No.81 of 2021 by the judgment dated 31.05.2023 on the file of the learned Sessions Judge, [Principal POCSO Court], Salem and release the petitioner on bail pending disposal of the above appeal.

For Petitioner

... Mr.J.Franklin

For Respondent

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



ORDER

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This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in Spl.S.C.No.81 of 2021 by the judgment dated 31.05.2023 on the file of the learned Sessions Judge, [Principal POCSO Court], Salem and release the petitioner on bail pending disposal of the above appeal.

2. The trial court, by its judgment dated 31.05.2023, convicted and sentenced the petitioner/accused as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.11[iv] read with 12 of Protection of Children from Sexual Offences Act 2012.	To undergo 3 years RI and pay a fine of Rs.1000/-, in default to undergo Additional RI for 6 months

The period of sentence already undergone by the accused in custody from 21.09.2020 to 07.12.2020 is Ordered to be set of under section 428 Cr.P.C.

The petitioner had paid the fine amount.

3. Aggrieved over the judgment of conviction and sentence imposed on



the petitioner, the petitioner has filed the present appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioner submitted that the allegation against the petitioner/accused is that he viewed the victim while she was taking bath. He further submitted that at the place of occurrence there is only open bathroom closed with sarees. Hence, he would submit that there are arguable points in this appeal and the petitioner has every chance to succeed in this appeal and he is in custody from 31.05.2023 and prayed for suspension of sentence till the disposal of this appeal.

5. Heard the learned counsel appearing for the petitioner and the learned Govt. Advocate (crl.side) appearing for the respondent and perused the materials available on record.

6. On the complaint given by the mother of the victim, a case in Crime No.18 of 2020 has been registered against the petitioner/accused for the offence under section 11[iv] read with 12 of Protection of Children from Sexual Offences Act 2012. The trial Court has taken cognizance of the case



in Spl.S.C.No.81 of 2021 and after trial, the trial Court convicted the petitioner/accused as stated above. The allegation against the accused is that the petitioner, who is the neighbour of the defacto complainant, viewed the victim while she was taking bath. On a perusal of the records, it is seen that it is only an open bathroom closed with sarees. Further, the petitioner is in custody from 31.05.2023. The petitioner has raised substantial grounds in the appeal and 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.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall surrender before the Sessions Judge, [Principal POCSO Court], Salem, within two weeks from the date of receipt of a copy of this order and on such surrender, 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 said Court.
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety



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bonds and the trial 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.

23.06.2023

vrc

To

1. The Sessions Judge,
[Principal POCSO Court], Salem.
2. The Inspector of Police,
All Women Police Station, Sooramangalam, Salem District.
3. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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