



Crl. M.P. No.12974 of 2023
in Crl.A.No.907 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.M.P.No.12974 of 2023
in Crl.A. No.907 of 2023

K.Ellumalai

...Petitioner

vs.

State Rep. by its
The Inspector of Police,
W-8, All Women Police Station,
Thirumangalam, Chennai – 101.
(Crime No.133/2022
K-11, Koyambedu Police Station)

...Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. praying to suspend the sentence imposed in Spl.S.C.No.81/2022 dated 26.06.2023 by the Additional Special Court for Exclusive Trial of cases under POCSO Act (Mahalir Neethimandram), Allikulam, Chennai and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondent : Mr.S.Sugendran,
Additional Public Prosecutor



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ORDER

This criminal miscellaneous petition is filed seeking suspension of sentence imposed by the Additional Special Court for Exclusive Trial of cases under POCSO Act (Mahalir Neethimandram), Allikulam, Chennai in Spl.S.C.No.81/2022 dated 26.06.2023 and to enlarge the petitioner on bail.

2. The petitioner is the accused in Spl.S.C.No.81/2022 before the Additional Special Court for Exclusive Trial of cases under POCSO Act (Mahalir Neethimandram), Allikulam, Chennai and he was convicted and sentenced on 26.06.2023 as under:

<i>S.No.</i>	<i>Offences under which convicted</i>	<i>Sentence</i>
1.	Section 366 IPC	Rigorous Imprisonment for a period of three years and to pay a fine of Rs.3,000/-, in default, to undergo simple imprisonment for three months.
2.	Section 8 POCSO Act	Rigorous Imprisonment for a period of three years and to pay a fine of Rs.3,000/-, in default, to undergo simple imprisonment for three months.

The aforesaid sentences were ordered to run concurrently.



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3. Heard Mr.S.Nedunchezhiyan, the learned counsel for the petitioner and Mr.S.Sugendran, learned Additional Public Prosecutor for the respondent.

4. The learned counsel for the petitioner contended that the age of the victim was 15 years and she was in love with the accused who was then aged 26 years and that the petitioner has fair chance to prove his innocence and succeed in the appeal. He therefore, prayed for suspending the sentence till the conclusion of this appeal.

5.Mr.S.Sugendran, learned Additional Public Prosecutor did not raise any serious objection to grant the relief of suspension of sentence.

6. Considering the facts and circumstances of the case, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail with the following conditions.



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- i. The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Additional Special Court for Exclusive Trial of cases under POCSO Act, (Mahalir Neethimandram), Allikulam, Chennai.
- ii. The sureties shall affix their photographs and Left Thumb Impression on the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- iii. The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

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R.HEMALATHA, J.
mtl

To

1.The State Rep. by its
The Inspector of Police,
W-8, All Women Police Station,
Thirumangalam, Chennai – 101.

2.The Additional Special Court for Exclusive Trial of cases under
POCSO Act, (Mahalir Neethimandram), Allikulam, Chennai.

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