



Crl.MP No.19574 of 2022 in
Crl.A.No.1293 of 2022

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DATED: 14.02.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.No.19574 of 2022

in

Crl.A.No.1293 of 2022

Ajithkumar

... Petitioner

Vs.

State Rep. by the Inspector of Police,
All Women Police Station, Panruti,
Cuddalore District.
Crime No.638/2019

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore by a judgment dated 30.11.2022 passed in Spl.S.C.No.67/2021 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondent : Mr.C.E.Pratap,
Govt. Advocate (Crl.Side)



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CrI.MP No.19574 of 2022 in
CrI.A.No.1293 of 2022

ORDER

The petitioner, who is an accused in Spl.S.C.No.67/2021 on the file of the Sessions Court, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, seeks suspension of his sentence of imprisonment.

2. The Trial Court, by judgment dated 30.11.2022 passed in Spl.S.C.No.67/2021, acquitted the petitioner from the offence punishable under Section 9 of Prohibition of Child Marriage Act, however, convicted him for the offences punishable under Sections 366 and 344 IPC and Section 5(l) and 6 of POCSO Act, 2012 and sentenced him as extracted hereunder.

<i>Conviction under Section</i>	<i>Sentence</i>
Sec.366 IPC	10 years Rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months simple imprisonment.
Sec.344 IPC	2 years Rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 1 month simple imprisonment



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Crl.MP No.19574 of 2022 in
Crl.A.No.1293 of 2022

<i>Conviction under Section</i>	<i>Sentence</i>
Sec.5(l) and 6 of POCSO Act, 2012	10 years Rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months simple imprisonment.
The above said sentence of imprisonments were ordered to run concurrently.	

3. Challenging the judgment of conviction and sentence, the petitioner preferred the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4. The learned counsel for the petitioner submitted that there are arguable points in this Criminal Appeal. He further submitted that, now, the petitioner is in judicial custody and hence, prayed for suspension of sentence.

5. Heard the learned Government Advocate(Crl. side) appearing for the respondent and perused the impugned judgment and the materials on record.

6. Taking into consideration of the above submission of the learned



CrI.MP No.19574 of 2022 in
CrI.A.No.1293 of 2022

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counsel appearing on both sides, this Court finds that, the petitioner has substantial grounds in this Criminal Appeal, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

7. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner *shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) 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, Cuddalore.*

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court, as and when



CrI.MP No.19574 of 2022 in
CrI.A.No.1293 of 2022

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14.02.2023
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To

1. The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore.
2. The Superintendent, Central Prison, Cuddalore.
3. The Public Prosecutor, High Court of Madras, Chennai.



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Crl.MP No.19574 of 2022 in
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V.SIVAGNANAM, J.,

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Crl.M.P.No.19574 of 2022

in

Crl.A.No.1293 of 2022

14.02.2023

(2/2)