



Crl.M.P.No.20093 of 2022
in Crl.A.No.1325 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.20093 of 2022

in

Crl.A.No.1325 of 2022

M.Pandiarajan ... Petitioner
/vs/

Inspector of Police,
“D” Nagar, Police Station,
Puducherry.
(Crime No.166 of 2020) ... Respondent

PRAYER : Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed in judgment dated 16.11.2022 passed in Spl.S.C.No.64 of 2020 on the file of Principal Session & Special Judge at Puducherry and enlarge the petitioner on bail, pending disposal of the Criminal Appeal on the file of this Hon'ble Court.

For Petitioner ... Mr.R.Kannan

For Respondent ... Mr.V.Balamurugane
Public Prosecutor
(Puducherry i/c)



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ORDER

The criminal miscellaneous petition has been filed to suspend the sentence imposed on the petitioner by the trial Court in its judgment dated 16.11.2022 passed in Spl.S.C.No.64 of 2020 on the file of Principal Session & Special Judge at Puducherry and enlarge the petitioner on bail.

2. The petitioner is the sole accused in Spl.S.C.No.64 of 2020. After trial, the Trial Court found the petitioner as guilty for offences under Sections 9 (m) r/w 10 of POCSO Act 2012 and by its judgment dated 16.11.2022 convicted and sentenced him as under:

<i>Conviction under Section</i>	<i>Sentence</i>
10 of POCSO Act, 2012	To undergo Rigorous Imprisonment for 5 years and also directed to pay a fine of Rs.1,000/- in default of payment of fine, the accused shall undergo simple imprisonment of 1 month.

3.Challenging the conviction and sentence slapped by the trial Court, the petitioner is before this Court.



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4.The learned counsel for the petitioner contended that the respondent police registered a case in Crime No.166 of 2020 against this petitioner for offences under Sections 9 (m) r/w 10 of POCSO Act 2012. After completion of investigation, filed a charge sheet which was taken on file in Spl.S.C.No.64 of 2020. After trial, the trial Court found the petitioner as guilty and convicted and sentenced him. Hence, he filed the present criminal appeal.

5.He further submitted that the allegation against the petitioner/accused is that he touched the private part of the victim girl only and no offence was committed. The petitioner is in custody from 16.11.2022 and the petitioner paid the fine amount. There are arguable points in this Appeal and there is a lack of prosecution, inconsistent in the evidence, good case for defence to acquit the accused. Hence, seeks suspension of sentence and grant bail.



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6.The learned Public prosecutor objected to suspending the sentence and contended that the victim girl deposed about the overtact of the petitioner/accused.

7.Heard the learned counsel for the petitioner as well as the learned Public Prosecution (Pondicherry i/c) and perused the impugned judgment and the materials on record.

8.On perusal of the records, the specific allegation is that the petitioner touched the private part of the victim girl. Apart from this, the victim girl did not depose anything about the accused person. Considering the nature of the offence and the petitioner/accused is in custody from 16.11.2022, this Court finds that the petitioner has substantial ground in the criminal appeal, which requires detailed appraisal and is inclined to suspend the sentence and grant bail.



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9. 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.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Principal Session & Special Judge at Puducherry.*

(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 required.

Index : Yes/No
Internet : Yes/No
sms

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1. The Principal Session & Special Judge
at Puducherry.

2. The Central Prison, Puducherry.

3. Inspector of Police,
“D” Nagar, Police Station,
Puducherry.
(Crime No.166 of 2020)

4. The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM ,J.



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