



Crl.M.P.No.869 of 2023 in Crl.A.No.66 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.No.869 of 2023

in

Crl.A.No.66 of 2023

Nagamurthi,

... Petitioner

Vs.

The State Rep. By,
The Inspector of Police,
W4 – All Women Police Station,
Kilpauk, Chennai.
Crime No.04 of 2018

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) & (2) of Cr.P.C., pleased to call for the records and to suspend the sentence imposed in S.C.No.131 of 2019 dated 31.05.2022 by the Court of Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Chennai and enlarge the appellant on bail while pending disposal of the above criminal appeal in C.A.No. of 2022.

For Petitioner : Mr.D.Manoj Prabhakar

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



ORDER

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the appellant/accused in S.C.No.131 of 2019 on the file the Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act.

2. The Trial Court, vide its judgment dated 31.05.2022, convicted the accused/appellant under Section 6 of POSCO Act, 2012 with alternate punishment under Section 376 AB of I.P.C., which runs as follows:-

Rank of the accused	Conviction under Section	Sentence
Sole Accused	Section 6 of POSCO Act, with alternate punishment under Section 376 AB of I.P.C	To undergo 20 years R.I and to pay fine of Rs.1,000/-, in default to undergo S.I for 1 month.

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



4. The learned counsel for the petitioner submitted that there are arguable points in this Appeal. He further submitted that the petitioner is aged about 59 years and he is physically suffering from paralysis and his one leg and one hand are not functioning 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. On perusal of the records, the petitioner is aged about 59 years and he is suffering from paralysis and taking treatment. The petitioner is in custody from 31.05.2022, from the date of suspension and considering the age and his physical disability, this Court is inclined to grant 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.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Chennai.***

(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



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Aadhar card or Bank pass Book to ensure their identity.

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

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Index :Yes/No.

bsm

Note: Issue order copy on 10.02.2023

To,

1. The Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Chennai.
2. The Superintendent of Jail, Central Prison-I, Puzhal, Chennai.
3. The Inspector of Police, W4 – All Women Police Station, Kilpauk, Chennai.
4. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

bsm

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