



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twenty Second day of February Two Thousand and
Twenty Three

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PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.2759 of 2023

IN

CRL A(MD) No.336 of 2020

RAMKUMAR

... PETITIONER/APPELLANT

Vs

STATE THROUGH,
THE INSPECTOR OF POLICE,
AWPS SAMAYANALLUR,
MADURAI DISTRICT.
CR.NO.22 OF 2018.

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed against the petitioner in Spl S.C No. 55 of 2019 dated 13.10.2020 passed by the Learned Special court for POCSO Act, Madurai and enlarge the petitioner on bail pending disposal of the above appeal.

PRAYER IN CRL A(MD) No.336 of 2020:-

To call for records in S.S.C.No.55 of 2019 on the file of the Sessions Judge, Special court for exclusive trial of cases under POCSO Act, Madurai and set aside the conviction passed by judgement dated 13.10.2020 passed.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KARUPPASAMY PANDIYAN.G, Advocate for the petitioner and of M/S.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Special Court for POCSO Act, Madurai, in Spl.S.C.No.55 of 2019, dated 13.10.2022 and enlarge the petitioner on bail, pending disposal of the Appeal.



2. Case of the prosecution in brief:-

The victim girl was aged about 14 years and studying 8th Standard; during the holidays, she was staying in the house on 17.12.2018, when the victim girl returned to the home, after giving food to her father, the accused followed her and asked water for drinking. The victim girl was inside the house; at that time, the accused entered into the house followed her and dragged behind the house and misbehaved sexually and also touched her private parts. Thereafter, she told the incident to her mother. on the basis of the above said complaint, the case was registered for the offences under Sections 7 and 8 of the Protection of Children from Sexual Offence Act, 2012 in Crime No.22 of 2018.

3. The respondent police, after completing the investigation, has filed the final report and the same was taken on file in Spl.S.C.No.55 of 2019.

4. During the trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.9, exhibited 12 documents as Ex.P1 to Ex.P12. The defence has adduced neither oral nor documentary evidence.

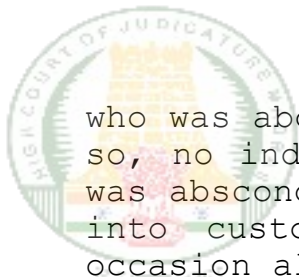
5. The learned Special Judge, upon considering the evidence and on hearing the arguments of both sides, has passed the impugned Judgment, dated 13.10.2020 and convicted the petitioner/accused for the offence under Section 8 of POCSO Act and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- for each offence, in default to undergo one month Simple Imprisonment. Aggrieved by the said Judgment of conviction and sentence, the petitioner/accused has preferred the present appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

7. The earlier application that was filed by the petitioner came to be dismissed by this Court in Crl.M.P(MD).No.6033 of 2020 on 11.12.2020 and this is the second bail petition for suspending the sentence.

8. The learned counsel for the petitioner submitted that the date of occurrence is 17.12.2018, but the complaint was given only on the next day (i.e) on 18.12.2018 and the complaint that was given by the victim girl's mother on the earlier occasion has been suppressed, it has been admitted by her during the course of her statement.

9. Per contra, the learned Additional Public Prosecutor appearing for the respondent police submitted that the victim girl,



who was about 14 years was sexually assaulted by this petit. and so, no indulgence need to be given. After disposal of the case, he was absconding and only on 14.07.2021, he was apprehended and taken into custody for serving the sentence period, on the previous occasion also, he was absconding.

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10. According to the learned Additional Public Prosecutor, the conduct of the petitioner must to be taken into account. The earlier order that was passed by this Court on 11.12.2020; shows that originally, the trial Court suspended the sentence till 03.12.2020. Later, he filed extension petition that was not entertained; so warrant was issued and he was secured. So that, the conduct of the petitioner is sufficient enough to reject the request for suspending the sentence even without going to the merits of the case and if the petitioner is released on bail by suspending the sentence, again, he may abscond and hamper the appeal process. So, I am not convincing with any of the grounds that was made by the petitioner for enlarging him.

Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-

22/02/2023

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/03/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT,
MADURAI.
- 2 THE INSPECTOR OF POLICE,
AWPS SAMAYANALLUR, MADURAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.2759 of 2023

IN

CRL A(MD) No.336 of 2020

Date :22/02/2023

NA/BUC/SAR-3/03.03.2023/3P/4C

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