



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.No.4365 of 2024

in

Crl.A.No.290 of 2024

Murugesan
S/o.Kanagaraj

... Petitioner

-Vs-

The State, Represented by
The Inspector of Police,
All Women Police Station,
Pollachi, Coimbatore.
Crime No.21 of 2019

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 (1) of the Criminal Procedure Code, 1973, to suspend the sentence imposed by the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore vide judgment dated 25.04.2023 in SPL.C.C.No.59 of 2020 and enlarge the petitioner on bail pending disposal of the above appeal.

For petitioner : Mr.J.Franklin
For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

O R D E R



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The criminal appeal has been filed as against the judgment and sentence passed by the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, in Spl.C.C.No.59 of 2020 dated 25.04.2023 in and by which, the petitioner/A2 was convicted for the offence punishable under Sections 5(m), 5(i) and Section 6 r/w 17 of POCSO Act and sentenced to undergo 20 years of rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo further period of six months simple imprisonment. Challenging the same, the appellant has filed the above criminal appeal and the present miscellaneous petition seeking suspension of sentence of imprisonment.

2. The learned counsel for the petitioner submitted that A1 has misbehaved with the victim girl and since A1 and A2/petitioner are friends, he has been implicated in the case and the petitioner/A2 only accompanied with him and he has nothing to do with the offence committed by A1. He further submitted that there is no evidence or material against the petitioner/A2 in this case. Hence, he prays for suspension of sentence.



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3. The learned Additional Public Prosecutor for the respondent produced 164 statement recorded from the victim girl and submitted that the allegations leveled against the petitioner are grave in nature and hence, she strongly objected for suspension of sentence.

4. The learned counsel for the petitioner has raised several arguable grounds insofar the appeal is concerned and it will take some more time for this Court to take up the criminal appeal and to dispose of the same.

5. A perusal of the statement recorded from the victim girl under Section 164 of Cr.P.C reveals that the first accused has misbehaved with the victim girl, however, there is no allegation leveled against the petitioner/A2. Hence, this Court is of the considered view that the sentence imposed against the petitioner/A2 can be suspended.

6. Accordingly, the Criminal Miscellaneous Petition is ordered and the punishment of imprisonment imposed as against the petitioner is hereby suspended and he is directed to be released on bail on the following conditions:



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a) the petitioner shall execute a bond for a sum of Rs.10,000/- to the satisfaction of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore along with two sureties for a like sum;

c) the petitioner shall report before the Court below on the first working day of every month at 10.00 a.m., pending disposal of the appeal.

6. Post the main appeal in the usual course as per the seniority.

20.06.2024

vji

Note: Issue order copy on 20.06.2024



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To

1. The Central Prison,
Coimbatore.
2. The Principal Special Court for Exclusive Trial
of Cases under POCSO Act,
Coimbatore.
3. The Inspector of Police,
All Women Police Station,
Pollachi,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras,
Madras.



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M.DHANDAPANI, J.

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