



*Crl.M.P.No.1213 of 2024
in Crl.A.No.109 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.1213 of 2024

in

Crl.A.No.109 of 2024

Alagesan

...
Vs.

Petitioners/Sole Accused

State rep.by Inspector of Police
All Women Police station,
Erode, Erode District.
(Crime No.5 of 2023)

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C. praying to suspend the sentence and enlarge the petitioner on bail imposed in Special SC.NO.64 of 2023 (on the file of the Sessions Judge, Magalir Neethi Mandram , Fast Track Mahila Court, Erode) dated 18.12.2023, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.M.Vignesh

For Respondent : Dr.C.E Pratap,
Govt. Advocate (Crl.side)



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ORDER

This Criminal Miscellaneous Petition has been filed suspend the sentence and enlarge the petitioner on bail imposed in Special SC.NO.64 of 2023 (on the file of the Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Erode) dated 18.12.2023, pending appeal.

2. It is the case of the prosecution that the victim's mother/PW2 is doing cloth business and that on 17.02.2023, the victim child informed that the petitioner had inserted his finger in the private part of the victim and hence a FIR was registered on the complaint lodged by the defacto complainant under Section 9(m), 10 of POCSO Act and on investigation, the respondent filed a final report.

3. The petitioner/accused in Spl.S.C.No.64 of 2023 was convicted by the Trial Court by judgment dated 18.12.2023 under Section 9(m) and 10 of POCSO Act and was sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.3,000/- and in default of payment of fine thereof, to undergo further period of 3 months simple imprisonment. Aggrieved by the same, the petitioner/accused filed Crl.A.No.109 of 2024 along with the instant



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miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the evidence of victim child does not inspire confidence and that the petitioner has been falsely implicated in this case on account of prior enmity; and that there are several arguable points in the above appeal which requires consideration; and that the petitioner is in custody from 18.12.2023.

5. Heard the learned Government Advocate (crl.side) for the respondent who would oppose for grant of suspension of sentence on the ground that the victim has been consistent in her version and the trial Court had rightly convicted the petitioner; and that the petitioner has not made out any case for suspension of sentence.

6. Considering the fact that the petitioner is in custody from 18.12.2023 and that the petitioner has raised several arguable points which requires consideration in the above appeal, this court is inclined to grant the relief of suspension of sentence to the petitioner.



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7. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethi Mandram , Fast Track Mahila Court, Erode) ;
- (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 and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

29.11.2024

rgr

To



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1. The Sessions Judge,
Magalir Neethi Mandram ,
Fast Track Mahila Court,
Erode.
2. The Inspector of Police
All Women Police station,
Erode, Erode District.
3. The Superintendent of Police
Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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