



Crl.M.P.No.4277 of 2024 in Crl.A.No.285 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.4277 of 2024
in Crl.A.No.285 of 2024

Raju @ Rajubai

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
All Women Police Station,
Virdhachalam, Cuddalore District.
(Crime No.19 of 2021).

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(i) of Code of Criminal Procedure, to suspend the sentence imposed in Special Sessions Case No.56 of 2022 dated 27.01.2023 passed by the Sessions Judge, Special Court for Exclusive Trial of Cases under POSCO Act, Cuddalore and enlarge the petitioner on bail pending disposal of main criminal appeal.

For Petitioner	:	Mr.K.V.Muthu Visakan
For Respondent	:	Dr.C.E.Pratap, Government Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in Special S.C.No.56 of 2022, dated 27.01.2023 by the learned Sessions Judge, Special Court (POCSO Act Cases), Cuddalore and to enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution is that the petitioner is the maternal uncle of the victim; that when the victim was residing in the house of the petitioner, on 05.04.2020, the petitioner is said to have touched her breast and thereafter removed her dress and inserted his private part into her private part; that when she shouted for help, the petitioner abused her in filthy language and also threatened her of dire consequences; that thereafter the victim had informed about the occurrence to the wife of the petitioner and the victim was sent to a Home; and that the complaint was lodged on 22.08.2021 when the victim is said to have sexually assaulted by another uncle who is A2 in this case.



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3.The petitioner was convicted for offence under Sections 9(n), 9(m) r/w 10 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default of payment of fine to undergo Simple Imprisonment for three months *vide* judgment, dated 27.01.2023 made in Special S.C.No.56 of 2022.

4.The learned counsel for the petitioner would submit that the victim in her deposition had admitted that the complaint was given only on the instigation of another neighbour/PW2 who had a dispute with the petitioner; that the victim had admitted in the cross examination to a specific question put by the Court that the incident with regard to penetrative sexual assault did not take place; that she had also admitted that she was told by PW2 to depose against the petitioner; and that the petitioner is in custody from 27.01.2023 and prayed for suspension of sentence.

5.Heard the learned Government Advocate (Crl. Side) appearing for



the respondent Police.

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6.This Court had perused the evidence of the victim and finds that there is force in the submissions made by the learned counsel for the petitioner; that the victim had deposed that the complaint was lodged only at the instance of PW2; and that in fact PW1 was treated as hostile by the prosecution.

7.Considering the above; the fact that there are several arguable points in the appeal which requires consideration; that the petitioner is in custody from 27.01.2023; and that the appeal is not likely to be taken in the near future; this Court is inclined to grant the relief of suspension of sentence.

8.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/- (Rupees ten thousand only), with two sureties, each for a like sum to the



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satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial
of Cases under POSCO Act, Cuddalore;

(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 further orders 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.

13.12.2024

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To

- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POSCO Act,
Cuddalore.
- 2.The Inspector of Police,
All Women Police Station,
Virdhachalam, Cuddalore District.
- 3.The Central Prison,
Cuddalore.
- 4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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