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Crl.M.P.No.4614 of 2024 in Crl.A.No.308 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.4614 of 2024
in Crl.A.No.308 of 2024

Sakunthala

... Petitioner

Vs.

The Inspector of Police,
W4, All Women Police Station,
Kilpauk, Chennai 10.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 [1] of Cr.P.C. to suspend the sentence passed against the petitioner in Spl.S.C.No.58 of 2021 and the judgment dated 06.02.2024 passed by the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and the petitioner to be released on bail pending disposal of the above appeal.

For Petitioner : Mr.M.Arvind Kumar
For Respondent : Mr.Dr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner in Spl.S.C.No.58 of 2021 vide judgment dated 06.02.2024, passed by the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and the petitioner to be released on bail pending disposal of the above appeal.



2. The case of the prosecution is that the petitioner in order to wreak vengeance on her husband had forged the lab report making it to appear that the child was pregnant due to the alleged penetrative sexual assault committed by her husband.

3.The petitioner was convicted for the offence under Section 468, 471 IPC and Section 22 of POCSO Act, 2012 and under Section 468 IPC sentenced to undergo imprisonment for 5 years, with a fine of Rs.2,000/- in default to undergo simple imprisonment for 1 month, under Section 471 IPC sentenced to undergo imprisonment for 5 years, with a fine of Rs.2000/-, in default, to undergo simple imprisonment for 1 month, under Section 22 of POCSO Act sentenced to undergo imprisonment for one year. The period already undergone by the accused was ordered to be set off against the sentence under Section 428 Cr.P.C. and the sentence were ordered to run concurrently.

4.The learned counsel for the petitioner would submit that there is no evidence adduced on the side of the prosecution to substantiate the allegation of forgery. He further submitted that the petitioner a woman is in custody from 06.02.2024 and that the petitioner has raised



substantial grounds in the appeal and prayed that the sentenced imposed on the petitioner may be suspended.

5.The learned Government Advocate (Crl.Side) vehemently opposed the grant of suspension of sentence to the petitioner.

6.This Court on perusal of the grounds of appeal found that the petitioner has raised substantial grounds and raised a doubt as to whether the petitioner had committed forgery of Ex.P10. The point raised by the petitioner requires consideration in the appeal.

7.Therefore, considering the above facts, the period of incarceration from 06.02.2024 and the fact that the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

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/-



with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai 600 104.

(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.

08.11.2024

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Issue order copy by 11.11.2024
Upload the order copy forthwith.

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, Chennai 600 104
2. The Inspector of Police,
W4, All Women Police Station,
Kilpauk, Chennai 10.



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3. The Superintendent of Prison,
Special Prison for Women, Puzhal, Chennai.

4. The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN, J.

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