



Crl.M.P.No.7749 of 2024 in Crl.A.No.586 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **31.07.2024**

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

Crl.M.P.No.7749 of 2024

in

Crl.A.No.586 of 2024

Vijay,
S/o.Murthy

... Petitioner

Vs.

State represented by
Inspector of Police,
All Women Police Station,
Thiruvarur District.
(Crime No.8/2019)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 389(1) of Criminal Procedure Code, praying to suspend the conviction and sentences imposed on the petitioner made order dated on 06.08.2021 in Spl.S.C.No.25 of 2019 on the file of Sessions Judge, (Fast Track Mahila Court Court), Thiruvarur and to release the petitioner on bail.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mrs.G.V.Kasthuri

Additional Public Prosecutor



Crl.M.P.No.7749 of 2024 in Crl.A.No.586 of 2024

WEB COPY

ORDER

This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed on the petitioner by the learned Sessions Judge, (Fast Track Mahila Court Court), Thiruvavarur vide judgment dated 06.08.2021 made in Special Sessions Case No.25 of 2019 and enlarge him on bail.

2. The petitioner/appellant was convicted for the offence u/s 6 r/w 5(m) (Two Counts) of the Protection of Children from sexual offences Act, 2012 (in short 'the POCSO Act') and was sentenced to undergo rigorous imprisonment of 10 years with a fine of Rs.5,000/-, in default to pay the fine amount, was sentenced to undergo simple imprisonment for a further period of one year, vide judgment dated 06.08.2021 made in Special Sessions Case No.25 of 2019 by the learned Sessions Judge, (Fast Track Mahila Court), Tiruvarur. Aggrieved by the same, the petitioner has filed the above appeal along with this petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner submitted that



Crl.M.P.No.7749 of 2024 in Crl.A.No.586 of 2024

there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. He further submitted that the petitioner is in jail for about three years and he is now confined in Central Prison, Tiruchirapalli. Accordingly, he prays for suspension of sentence.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that, on 27.05.2019, at about 9.00 p.m., the petitioner sexually assaulted the victim girl in the terrace of the house of victim, thereby he committed the alleged offence. She further submitted that the victim was aged about 5 years at the time of occurrence, hence, she opposed for grant of suspension of sentence.

5. Having regard to the fact that there are arguable points involved in the criminal appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration, I am of the considered opinion that the petitioner is entitled for the relief of suspension of sentence.



Crl.M.P.No.7749 of 2024 in Crl.A.No.586 of 2024

WEB COPY

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that 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 satisfaction of the learned Sessions Judge, (Fast Track Mahila Court), Thiruvavarur and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal. Further, the petitioner shall also appear before the respondent police at 10.30a.m. on every Monday, pending appeal.

7. Further, it is made clear that, if the petitioner indulges in similar offence in the future, the suspension of substantive sentence alone granted today will automatically stand dismissed without any further reference to this Court.

8. This Criminal Miscellaneous Petition is ordered accordingly.



Crl.M.P.No.7749 of 2024 in Crl.A.No.586 of 2024

WEB COPY

9. Post the main criminal appeal in Crl.A.No.586 of 2024 as per
seriatum.

31.07.2024

sp

To

- 1.The Sessions Judge, (Fast Track Court Mahila Court), Tiruvarur.
- 2.The Inspector of Police, All Women Police Station, Tiruvarur District.
- 3.The Superintendent, Central Prison, Tiruchirappalli.
- 4.The Public Prosecutor, High Court of Madras, Chennai.



WEB COPY



Crl.M.P.No.7749 of 2024 in Crl.A.No.586 of 2024

M.DHANDAPANI, J.

sp

Crl.M.P.No.7749 of 2024
in
Crl.A.No.586 of 2024

31.07.2024