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CrLMP.No.8481 of 2024
in CrL.A.No.1180 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrL.MP.No.8481 of 2024
in
CrL.A.No.1180 of 2022

James Maria Gnanaraj,

...Petitioner/Appellant

Versus

The State by Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai – 40.
Crime No.3 of 2015

...Respondent/Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389 [1] of the CrI.P.C.,1973, to suspend the sentence imposed on the petitioner/appellant in S.C.No.163 of 2018 on 17.10.2022 (in Crime No.3 of 2015) on the file of the learned Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Chennai, and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner : Mr.A.Ramesh
Senior Counsel
for
Ms.Selvi George



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For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

[Order of the Court was made by ***SUNDER MOHAN, J.***]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by Judgment and order dated 17.10.2022, passed in S.C.No.163 of 2018 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, Chennai, and to enlarge the petitioner on bail pending the disposal of the criminal appeal.

2. The petitioner in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
6 of POCSO Act	To undergo imprisonment for life, with a fine of Rs.10,000/- in default to undergo simple imprisonment for 3 months.
506(ii) of IPC	To undergo rigorous imprisonment for 7 years with a fine of Rs.10,000/- in default to undergo simple imprisonment for 3 months.
Both sentences shall run concurrently.	



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3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present petition.

4. Heard Mr.A.Ramesh the learned Senior Counsel for the petitioner, and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor, appearing for the respondent/police.

5. It is the case of the prosecution that the victim child was aged eight years and was studying third standard in a school, in which, the petitioner was working as a Computer and Yoga teacher; that the petitioner took the victim child to his room and committed penetrative sexual assault by removing her dress, threatening her and penetrating his finger into the vagina of the victim child, kissing and hugging her.

6. The learned Senior Counsel appearing for the petitioner submitted that the entire case is false; that originally the case was registered for the offence under Section 10 r/w 9(f) of the POCSO Act, 2012, as there was no



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allegation of penetrative sexual assault and there is only an allegation of beating by the petitioner and certain other vague allegations; that though the school had forty-three teachers and about a thousand students studying, none of them were examined; that the medical evidence belies the prosecution case inasmuch as the doctors did not find any signs of penetrative sexual assault; and that the petitioner has a fair chance of success in the appeal.

7. The learned Additional Public Prosecutor for the respondent/police, *per contra*, submitted that the prosecution has established its case beyond reasonable doubt and prayed for dismissal of the petition.

8. We have perused the records carefully and considered the rival submissions.

9. On perusal of the First Information Report, it is seen that it was originally registered for the offence under Section 10 r/w 9(f) of the POCSO Act, 2012. The allegation in the FIR was primarily relating to non sexual



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harassment and also an allegation of a sexual assault, without any details about the alleged penetrative sexual assault. The offences were altered subsequently. The deposition of the victim is contrary and is an improvement to the version in the FIR. Be that as it may. The respondent have not examined any student or teacher working in the school which is strange. The evidence of the doctors also suggests that there were no signs of penetrative sexual assaults on the victim. Therefore, we are *prima facie* of the view that the petitioner has a fair chance of success in the appeal.

11. Considering, the above, the fact that the petitioner is in custody from 17.10.2022 and that the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentence and grant bail to the petitioner/accused.

12. Accordingly, this Criminal Miscellaneous Petition stands allowed and the sentence imposed on the petitioner is suspended on the following conditions:-



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- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties each, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial cases under the POCSO Act, Chennai.
- (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;
- (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.

(M.S.R, J.)

(S.M, J.)

26.07.2024

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Note: Issue Order Copy on 29.07.2024



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Copy to:

- 1.The Sessions Judge,
Special Court for Exclusive Trial cases under the POCSO Act,
Chennai.
- 2.The State by Inspector of Police,
W-7, All Women Police Station,
Anna Nagar, Chennai – 40.
- 3.The Public Prosecutor
High Court of Madras,
Chennai - 600 104.



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