



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

**Crl.M.P. No.10792 of 2024
in Crl.A. No.979 of 2024**

Mala

... petitioner

-Vs-

The Inspector of Police,
AWPS, Kilapauk,
Chennai-30.

... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Sections 389 (i) of the Criminal Procedure Code, to suspend the sentence imposed on the petitioner/appellant by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai-104 in Spl. SC.No.14 of 2022 by judgment dated 05.06.2023 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal before the Hon'ble Court.

For petitioner : Mr.P.Syed Abdul Mashood

For Respondent : Mrs.G.V.Kasthuri
Addl. P.P.

ORDER

The Criminal Appeal has been filed as against the Judgment and sentence passed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai-104 in Spl. SC.No.14 of 2022 by judgment dated



WEB COPY

05.06.2023 and convicted the appellant for an offence under Section 6 read with 1 of POCSO Act and 10 read with 17 of POCSO Act and sentenced to undergo five years with fine of Rs.5000/- in default, to undergo simple imprisonment for one month. Challenging the same, the appellant has filed Criminal appeal and the present miscellaneous petition seeking suspension of sentence of imprisonment.

2. The case of the prosecution is that there are three accused in this case. The first accused made sexual assault to the victim children/P.W.2 to 8. The appellant is arrayed as A3.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent. There is a contradiction over the evidence of the prosecution, which creates doubt about the case. The petitioner is in jail for more than one year. Hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor has vehemently opposed to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.



WEB COPY

6. On perusal of the statements of the Victims, it is seen that there is no allegation stated against the appellant/A3 and the first accused made sexual assault to her daughter also.

7. In the facts and circumstances of the case, the Criminal Miscellaneous Petition is ordered and the punishment of imprisonment imposed as against the appellant/A3 is hereby suspended and they are directed to be released on bail on the following conditions:

a) the appellant/A3 shall execute a bond for a sum of Rs.10,000/- to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai-104 along with two sureties for a like sum;

b) the appellant shall report before the Court below on the first working day of every month, pending disposal of the appeal.

31.07.2024

rli

Note: Issue order copy on 01.08.2024

To

1. The Inspector of Police,
AWPS, Kilapauk,
Chennai-30.



WEB COPY



M.DHANDAPANI, J.

rli

2. The Sessions Judge,
Special Court for Exclusive Trial of
Cases under POCSO Act, Chennai-104

3. The Superintendent
Central Prison, Puzhal-III, Chennai.

4. The Public Prosecutor, High Court of Madras.

**Crl.M.P. No.10792 of 2024
in Crl.A. No.979 of 2024**

31.07.2024