



Crl.M.P.No.14167 of 2023 in Crl.A.No.968 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **16.07.2024**

CORAM:

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

Crl.M.P.No.14167 of 2023

in

Crl.A.No.968 of 2023

Muthu

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Race Course Police Station,
Coimbatore.
(Crime No.551 of 2017)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 389(1) of Criminal Procedure Code, praying to suspend the sentence imposed by the learned Special Court for Exclusive Trial of Cases POCSO Act, Coimbatore in Special Calendar Case No.18 of 2019 dated 21.09.2022 and enlarge the petitioner/sole accused on bail, till the disposal of the Criminal Appeal.

For Petitioner : Mr.S.Maya Perumal

For Respondent : Mrs.G.V.Kasthuri

Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore vide judgment dated 21.09.2022 made in Special Calendar Case No.18 of 2019 and enlarge him on bail.

2. The petitioner/appellant was convicted for the offence u/s 363 of IPC and was sentenced to undergo rigorous imprisonment of 5 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 6 months and further, the petitioner was also convicted for the offence u/s 5(l) punishable u/s 6 of The Protection of Children's from Sexual Offences Act, 2012 and was sentenced to undergo rigorous imprisonment of 10 years with a fine of Rs.20,000/-, in default to pay the fine amount, was sentenced to undergo simple imprisonment for a further period of one year, vide judgment dated 21.09.2022 made in Special Calendar Case No.18 of 2019 by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.



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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 the petitioner and the victim girl loved each other for more than six months and on 05.05.2017, with the consent of the victim girl, the petitioner took the victim girl to Vilankurichi and performed marriage at Vinayakar Temple on the same day. However, the petitioner did not know the age of the minor victim girl. Based on the complaint given by the mother of the victim girl, the petitioner was implicated in the present case. Further, he submitted that 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 was under judicial custody from 21.09.2022 and he is now confined in Central Prison, Coimbatore. Accordingly, he prays for suspension of sentence.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that there was a love affair between the



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petitioner and the victim girl and on 05.05.2017, the petitioner married the victim girl and from that day onwards, he had committed penetrative sexual offence on the victim girl forcibly and without her consent. 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 fact that there was a love affair between the petitioner and the victim girl 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.

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 Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore and on further condition that the petitioner shall appear before



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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 10.30 a.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.

9. Post the main criminal appeal in Crl.A.No.968 of 2023 as per seriatum.

16.07.2024

sp

To

- 1.The Special Court for Exclusive Trial of Case under POCSO Act, Coimbatore.
- 2.The Inspector of Police, Race Course Police Station, Coimbatore.
- 3.The Superintendent, Central Prison, Coimbatore.
- 4.The Public Prosecutor, High Court of Madras.

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M.DHANDAPANI, J.

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