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Crl.M.P.No.11267 of 2024 in Crl.A.No.934 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.11267 of 2024
in Crl.A.No.934 of 2024

1.Ramesh

2.Manoj

3.Govindharaj

... Petitioners/Accused 1 to 3

Vs.

The State Rep. by

The Inspector of Police,

W-20 All Women Police Station,

Saidapet, Chennai District.

(Cr.No.188/2018)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in Spl.C.C.No.225 of 2022 dated 03.07.2022 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 above Criminal Appeal.

For Petitioners : Mr.P.Muthamizh Selvakumar

For Respondent : Mr.V.J.Priyadarsana

Government Advocate (Crl. Side)

assisted by Ms.A.Shahana Fathima

ORDER

This Criminal Miscellaneous Petition has been filed seeking to



suspend the sentence imposed on the petitioners/A1 to A3 by judgment and order dated 03.07.2024 passed in Spl.S.C.No.225 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial cases under POCSO Act, Chennai, and to enlarge the petitioners on bail pending disposal of the appeal.

2. The petitioners, who are arrayed as A1 to A3 in the above Sessions Case, were convicted and sentenced as follows:

Accused No.	Offence under Section	Sentence imposed
A1 and A3	10 of POCSO Act @ 10 r/w 17 of POCSO Act	Each of them sentenced to undergo imprisonment for five years and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for one month.
A2	10 of POCSO Act	sentenced to undergo imprisonment for five years and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for one month.

3. Challenging the above conviction and sentence, the petitioners have filed the above Criminal Appeal and they seek suspension of sentence and bail in the present petition.

4. Heard Mr.P.Muthamizh Selvakumar, learned counsel for the



petitioners and Mr.V.J.Priyadarsana, learned Government Advocate (Crl.Side) appearing for the respondent/State.

5. It is the case of the prosecution that on 26.12.2018, while the victim was waiting for her boyfriend (PW6), three persons/the petitioners herein had threatened her with a knife, took her to a secluded place, snatched her bag, money and mobile phone and thereafter touched her breast inappropriately; and that thereafter, the victim managed to go from the place of occurrence.

6. The learned counsel appearing for the petitioners would submit that the allegation against the petitioners in the charge , is contrary to the deposition as well as Section 164 Cr.P.C. statement of the victim. He further submitted that the petitioners are in custody from 03.07.2024 and hence, he prayed that the sentence imposed on the petitioners/accused may be suspended.

7. The learned Government Advocate (Crl. Side) *per contra* submitted that the case has been established beyond reasonable doubt



and minor contradictions would not affect the prosecution case in any manner. Hence, he prayed for dismissal of the petition.

8. Considering the submissions of the learned counsel for the petitioners; the deposition of the victim in the cross examination; the fact that the petitioners are in custody from 03.07.2024; and 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 petitioners herein/A1 to A3.

9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioners/A1 to A3, is suspended and they are ordered to be released on bail on the following conditions:

- (i) Each of the petitioners 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 cases under POCSO Act, Chennai;
- (ii) The petitioners 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 petitioners 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 they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

05.11.2024

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Issue order copy by 06.11.2024
Upload the order copy forthwith.

To

- 1.The Sessions Judge, Special Court for Exclusive Trial cases under POCSO Act.
Chennai
2. The Superintendent of Prisons,
Central Prison, Puzhal.
- 3.The Public Prosecutor,
Madras High Court.
4. The Inspector of Police,
W-20 All Women Police Station,
Saidapet, Chennai District



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SUNDER MOHAN, J.

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