



WEB COPY



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

Crl.M.P.No.11294 of 2024
in
Crl.A.No.1028 of 2024

M. NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed on him by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore dated 10.07.2024 in Spl.S.C.No.98 of 2023 till the disposal of above Criminal Appeal and enlarge the petitioner on bail.

2.The petitioner/accused in Spl.S.C.No.98 of 2023 was convicted by the Trial Court by judgment dated 10.07.2024 and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment for offence under Sections 7 r/w 8 of POCSO Act and to undergo one year simple imprisonment for offence under Section 342 of I.P.C. The sentences are directed to run concurrently. Aggrieved against the said order, he filed an appeal before this Court in Crl.A.No.1028 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.



WEB COPY



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

3.The case projected against the petitioner/accused is that the petitioner is running a utensil shop namely, Vimal Steel House at Kandasamy Nagar in Pollachi. The petitioner and victim's father were friends. The victim girl's family was residing near the shop. The victim's father running a photo studio shop. On 03.07.2022, the victim's mother asked the victim girl to purchase some condiment from the grocery shop. The victim girl was proceeding to the shop, at that time, the petitioner called the victim girl to his shop and made her to sit on a table and touched her waist and also made improper touch on the vagina of the victim girl. The victim girl got scared and ran away. While she was returning back from the grocery shop, the petitioner again called the victim girl, but the victim girl ran to her house crying. The victim's mother enquired about the same and later complaint was lodged and a case registered.

4.During trial, on the side of the prosecution, PW1 to PW10 examined and marked Exs.P1 to P10. Section 164 Cr.P.C. statement of the victim girl marked as Ex.C1. On the side of the defence no witnesses examined and no



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

documents marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, had convicted the petitioner as stated above.

5.The contention of the learned counsel for petitioner is that there was some dispute with regard to the Traders Association and the petitioner has been falsely implicated in this case. The inside of the petitioner's shop is visible from outside. There is no closed place for committing such offence. The grocery shop, where the victim girl gone on the date of alleged occurrence, non enquired and whether at all the victim girl had come out at that time from the shop, there is no evidence. Initially, the victim in her statement stated that she was made to sit on a table, later she improved that she was made to stand on a table and at that time improper touch made with sexual intent by the petitioner. In this case, PW1 is the victim girl, PW2 and PW3 are parents of the victim girl and PW4 is her aunt. PW2 to PW4 are hearsay witnesses. PW2 heard from PW1, but gives exaggerated version. The specific case of the petitioner is that for the purpose to extract money false case lodged against the petitioner. The trial Court on the evidence and materials had convicted the petitioner. He further submitted that the trial



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

Court suspended the sentence imposed on the petitioner till 08.08.2024 in Crl.M.P.No.981 of 2024. Further submitted that the petitioner has arguable points and fair chance to succeed in this appeal. Hence, he prays for granting suspension of sentence to the petitioner.

6.The learned Government Advocate (Crl. Side) opposed his contention, filed his counter and submitted that the victim girl was asked by her mother to go to the grocery shop to purchase some spices. When the victim girl went to the grocery shop, the petitioner, owner of Vimal Steel House Shop, called the victim girl and took her to the shop and made improper touch on her private parts. The victim girl got frightened ran away from the shop and informed to her mother. Thereafter, a complaint lodged. PW2, PW3 and PW4 are the parents and Aunt of the victim girl, who confirmed the victim girl's statement. Even in the 164 Cr.P.C. statement victim confirms petitioner making improper touch. The trial Court on the evidence of witnesses and materials had rightly convicted the petitioner. He further submitted that in this case the trial Court had suspended the sentence of the petitioner till 08.08.2024. However, he prays for dismissal of the petition.



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

WEB COPY

7.Considering the submissions made and on perusal of the material, it is seen that the trial Court had already suspended the sentence of the petitioner till 08.08.2024. Further taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.

8.Accordingly, the reliefs of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal appeal:

(a) The petitioner/accused is ordered to be enlarged on bail, on condition that he 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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Sessions



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

Judge may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar 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 that 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.

9. Accordingly, this Criminal Miscellaneous Petition is ordered.

14.08.2024

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
Neutral citation : Yes/No
rsi

Note: Issue order copy on 19.08.2024.



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

To
WEB COPY

- 1.The Inspector of Police,
All Women Police Station,
Pollachi,
Coimbatore District.
- 2.The Sessions Judge,
Principal Special Court for Exclusive Trial of Cases under POCSO Act,
Coimbatore.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



*Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024*

M. NIRMAL KUMAR, J.

rsi

**Crl.M.P.No.11294 of 2024
in Crl.A.No.1028 of 2024**

14.08.2024