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Crl.MP.No.12710 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

Crl.MP.No.12710 of 2024
in Crl.A.No.1137 of 2024

1.Karthick @ Gayathiri
2.Satheesh @ Mullai

...Petitioners

Versus

State rep. by its
Inspector of Police,
Magudanchavadi Police Station,
Salem District,
Crime No.210 of 2022.

...Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS to suspend the sentence passed in Spl.S.C.No.265 of 2022, vide judgment dated 22.02.2024, on the file of the learned Session Judge, Principal POCSO Court, Salem and enlarge the petitioners on bail pending disposal of the above criminal appeal.

For Petitioners : Mr.S.T.Raja
for M/s.G.S.Dhanalakshmi
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



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ORDER

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[Order of the Court was made by S.M.SUBRAMANIAM, J]

This criminal miscellaneous petition has been filed seeking to suspend the sentence of imprisonment imposed in the judgment dated 22.02.2024, passed in Spl.S.C.No.265 of 2022, on the file of the Session Judge, Principal POCSO Court, Salem and enlarge the petitioners on bail pending disposal of the above criminal appeal before this Court.

2.The petitioners/appellants in the above case were convicted and sentenced to undergo five years of rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to pay the fine amount, to undergo rigorous imprisonment for one year under Section 366 IPC and to undergo rigorous life sentence and to pay a fine of Rs.1,000/- for each of the offences under Section 5 (1) r/w Section 6 and Section 5 (g) r/w Section 6 of the POCSO Act, 2012 and in default to pay the fine amount, to undergo rigorous imprisonment for one year for each of the offences under Section 5 (1) r/w Section 6 and Section 5 (g) r/w Section 6 of the POCSO Act, 2012.



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3. Aggrieved against the judgment of conviction and sentence imposed on the petitioners/appellants by the Trial Court, in Spl.S.C.No.265 of 2022, the petitioners/appellants have filed the present criminal appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent and perused the impugned judgment and the materials on record.

5. We have gone through the evidence of the minor victim boy PW2. PW9 & PW10 are Doctors' evidence. Admittedly, medical records of the victim boy was not submitted by the prosecution. Perusal of the Doctors' evidence would reveal that there is no aggravated penetrative sexual assault. Since there is arguable point on the side of the petitioners, we are inclined to consider the present petition and suspend the sentence imposed on the petitioners.



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6. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioners is suspended on the following conditions:

(i)The petitioners shall execute a bond for a sum of Rs.25,000/-, each with two independent sureties, each for a like sum to the satisfaction of the *learned Sessions Judge, Principal POCSO Court, Salem.*

(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.

[S.M.S., J.]

[M.J.R.,
J.]

13.12.2024

sli
To

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- 1.The Sessions Judge,
Principal POCSO Court, Salem.
- 2.The Inspector of Police,
Magudanchavadi Police Station,
Salem District,
Crime No.210 of 2022.
- 3.The Superintendent, Central Prison for women,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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