



Crl.M.P.No.12187 of 2024 in Crl.A.No.1097 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.12187 of 2024
in Crl.A.No.1097 of 2024

Murugan

... Petitioner

Vs.

1.State Rep. by
The Deputy Superintendent of Police,
Arni Taluk Police Station,
Tiruvannamalai District.

2.The Inspector of Police,
Arni Taluk Police Station,
Tiruvannamalai District.
(Cr.No.150 of 2019)

3.M.Ganapathi

... Respondents

PRAYER: Criminal Miscellaneous Petition is filed under Section 430 of BNSS, to suspend the execution of sentence imposed on the petitioner by the order of the Learned Special Court for the Exclusive Trial of POCSO Act Cases, Tiruvannamalai in Special S.C.No.34 of 2020 dated 04.07.2024 pending disposal of the above appeal.



Crl.M.P.No.12187 of 2024 in Crl.A.No.1097 of 2024

For Petitioner : Mr.E.Sathiyaraj
For R1 & R2 : Dr.C.E.Pratap,
Government Advocate (Crl.side)

ORDER

Today the matter is listed under the caption 'For Being Mentioned' at the instance of the learned counsel for the petitioner.

2.The learned counsel for the petitioner would submit that this Court by order, dated 05.11.2024 had granted suspension of sentence alone to the petitioner, however, inadvertently, it has been recorded as if the main criminal appeal is allowed.

3.In view of the above, the order, dated 05.11.2024 passed in the main criminal appeal is hereby revoked and the following order is passed in Crl.M.P.No.12187 of 2024 in Crl.A.No.1097 of 2024:

“This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in Special S.C.No.34 of 2020, dated 04.07.2024 by the learned Sessions Judge, Special Court (POCSO Cases), Tiruvannamalai and to enlarge the petitioner on bail pending disposal of the appeal.



2.The case of prosecution is that the victim is a minor aged about 17 years and that the accused aged about 20 years had lured the victim on the promise of marriage and had taken the victim to another place, tied thali and committed penetrative sexual assault on her.

3.The petitioner was convicted for offences under Sections 366 and Sections 376(2)(n) of IPC & Section 6 r/w 5(l) of Protection of Children from Sexual Offences Act, 2012 and in so far as the offence under Section 366 of IPC, the petitioner was sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default of payment of fine to undergo Simple Imprisonment for one year and in so far as the offence under Section 376(2)(n) & Section 6 r/w 5(l) of Protection of Children from Sexual Offences Act, 2012, the petitioner was sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default of payment of fine to undergo Simple Imprisonment for one year *vide* judgment, dated 04.07.2024 made in Special S.C.No.34 of 2020.

4.The learned counsel for petitioner would submit that admittedly it is a case of love affair and the evidence of victim would show that both of them joined for work and had gone to



Erode to join a company and there they informed the Proprietor of the company that they were married. The learned counsel would further submit that the evidence of PW6-Doctor, would show that the victim was not a minor when she examined her on 08.03.2019 and the document Ex.P7 produced on the side of the prosecution is only a school certificate and that though the victim had a birth certificate, the same was not produced and therefore, the age of the victim was not established by the prosecution.

5.The learned Government Advocate (Crl. Side), *per contra*, submitted that the Trial Court has considered the evidence on record in right prospective and the petitioner has not made out any ground for suspension of sentence and that the Trial Court had rightly dismissed the bail petition and strongly opposed for granting bail to the petitioner.

6.On perusal of the evidence of the victim, it is clear that the victim had on her volition had gone with the petitioner and had joined a company along with the petitioner by stating that she and the petitioner were married. The evidence further discloses that the petitioner had tied thali and thereafter they were living together as husband and wife. The evidence of PW6-doctor indicates that the victim was not a minor when she



was examined on 08.03.2019. The alleged occurrence is said to have taken place on 16.02.2019. The only document produced on the side of the prosecution to prove the date of birth is Ex.P7-school certificate issued by the school. Though PW9-Headmaster of the school was examined to prove the school document, he had admitted in the cross examination that he did not verify the date of birth from the birth certificate before issuing Ex.P7-school certificate.

7.Considering the submissions of the learned counsel for the petitioner, the above facts, nature of allegation and the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(i)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 Sessions Judge, Special Court (POCSO Cases), Tiruvannamalai;

(ii)The petitioner 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 petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m until further



Crl.M.P.No.12187 of 2024 in Crl.A.No.1097 of 2024

orders and if he is not able to appear before the trial Court on any 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.”

4.Registry is directed to issue a fresh order copy forthwith after incorporating the above said order forthwith.

13.12.2024
(2/2)

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No

vv2



Crl.M.P.No.12187 of 2024 in Crl.A.No.1097 of 2024

To
WEB COPY

- 1.The Deputy Superintendent of Police,
Arni Taluk Police Station,
Tiruvannamalai District.
- 2.The Inspector of Police,
Arni Taluk Police Station,
Tiruvannamalai District.
- 3.The Special Court for the Exclusive Trial
of POCSO Act cases,
Tiruvannamalai.
- 4.The Superintendent of Police,
Central Prison, Vellore.
- 5.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.M.P.No.12187 of 2024 in Crl.A.No.1097 of 2024

SUNDER MOHAN, J.

vv2

Crl.M.P.No.12187 of 2024
in Crl.A.No.1097 of 2024

13.12.2024
(2/2)