



Crl.M.P.No.12812 of 2024 in Crl.A.No.1143 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.12812 of 2024
in Crl.A.No.1143 of 2024

Appu @ Arputharaj

... Petitioner

Vs.

The State represented by
Sub Inspector of Police,
Mudaliarpet Police Station,
Puducherry.
(Crime No.51/2023).

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430 of BNSS, to suspend the sentence imposed on the petitioner in Special Sessions Case No.224 of 2023 dated 22.08.2024 by the Sessions Judge, Fast Track Court exclusively dealing with offences under the POCSO Act at Puducherry and enlarge the petitioner on bail pending disposal of the Crl.Appeal.

For Petitioner : Mr.D.Chandrakumar

For Respondent : Mr.K.S.Mohandass,
Public Prosecutor, Puducherry

ORDER



Crl.M.P.No.12812 of 2024 in Crl.A.No.1143 of 2024

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in Special S.C.No.224 of 2023, dated 22.08.2024 by the learned Sessions Judge, Fast Track Court Exclusively to deal with offences under the POCSO Act at Puducherry and to enlarge the petitioner on bail pending disposal of the appeal.

2.It is the case of the prosecution that the victim girl after school hours had gone to meet her friend; that the petitioner is a neighbour of the victim's friend; and that when the victim was playing with her friend, the petitioner had hugged the victim and touched her private part with sexual intent.

3.The petitioner was convicted for offence under Section 10 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo five years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default of payment of fine to undergo Simple Imprisonment for one month *vide* judgment, dated 22.08.2024 made in Special S.C.No.224 of 2023.

4.Heard Mr.D.Chandrakumar, learned counsel for the petitioner and



Crl.M.P.No.12812 of 2024 in Crl.A.No.1143 of 2024

Mr.K.S.Mohandass, learned Public Prosecutor, Puducherry appearing for
the respondent/State.

5.The learned counsel for the petitioner would submit that the judgment of the Court below suffers from several infirmities; that the victim girl, aged about seven years, had given contradictory statements in the Section 164 Cr.P.C and in the deposition before the trial Court; and that the prosecution case is false. The learned counsel would further submit that the petitioner is in custody from 22.08.2024; and therefore, he prayed for suspension of sentence.

6.The learned Public Prosecutor, Puducherry *per contra* would submit that the victim girl was a seven year old girl; that the petitioner had hugged and touched her private parts which has been established by the cogent and convincing evidence; and prayed for dismissal of the petition.

7.Considering the fact that the petitioner has raised substantial grounds in the above appeal which requires consideration; and that the petitioner is in custody from 22.08.2024, this Court is inclined to grant the



relief of suspension of sentence. Since the petitioner and the victim girl belong to the same place, this Court is of the view that the petitioner can be directed to stay at a different place for sometime.

8. Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on 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, Fast Track Court Exclusively to deal with offences under the POCSO Act at Puducherry;

(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;

(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make



CrI.M.P.No.12812 of 2024 in CrI.A.No.1143 of 2024

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; and

(iv)The petitioner shall stay at Karaikal and report before the Station House Officer, Thirunallar Police Station, Karaikal daily at 10.30 a.m., until further orders, except on the day when he is directed to appear before the Trial Court.

04.12.2024

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To

- 1.The Sessions Judge,
Fast Track Court Exclusively to deal with offences
under the POCSO Act at Puducherry.
- 2.The Sub Inspector of Police,
Mudaliarpur Police Station,
Puducherry.

SUNDER MOHAN, J.

vv2

3.The Station House Officer,



Crl.M.P.No.12812 of 2024 in Crl.A.No.1143 of 2024

Thirunallar Police Station,
Karaikal.

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4.The Central Prison,
Puducherry.

5.The Public Prosecutor,
Madras High Court.

Crl.M.P.No.12812 of 2024
in Crl.A.No.1143 of 2024

04.12.2024