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Crl.M.P.No.13759 of 2024
in
Crl.A.No.1229 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 9/12/2024

CO R A M

The HONOURABLE MR JUSTICE SUNDER MOHAN

CRL MP.No.13759 of 2024

in

CRL A.No.1229 of 2024

S.Lawrance

...

Petitioner

Vs

State

rep. The Inspector of Police
Kannagi Nagar Police Station
Chennai 600 097.

...

Respondent

Prayer: Petition filed under Section 374 (2) of the Code of Criminal Procedure to suspend the sentence imposed in Spl.S.C.No.185 of 2019 dated 9/10/2023 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu and enlarge the petitioner on bail pending disposal of the appeal.

For petitioner ... Ms.K.Akshaya

For respondent ... Dr.C.E.Pratap

Government Advocate (Criminal Side)



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ORDER

This petition has been filed to suspend the sentence imposed in Spl.S.C.No.185 of 2019 dated 9/10/2023 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu and enlarge the petitioner on bail pending disposal of the appeal.

2. It is the case of the prosecution that the victim was aged about 7 years; that the petitioner and the victim girl were living in the same area; that on 27/8/2018 at about 7.00 a.m., when the victim was sleeping on the tri-cycle belonging to her mother, the petitioner had lifted the skirt of the victim and touched the breast of the victim inappropriately and had inserted his finger in the private part of the victim and thereby, committed an offence under Section 376 (AB) and Section 5 (m) r/w. 6 of POCSO Act.

3. The learned trial Judge convicted the petitioner for the offence under Section 5 (m) r/w. 6 of POCSO Act, 2012 and sentenced to undergo rigorous imprisonment for 10 years with a fine of Rs.10,000/- and in default



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to undergo 6 months simple imprisonment.

4. The learned counsel appearing for the petitioner submitted that PW8-Doctor had deposed that when she examined the victim, the victim told her that the petitioner touched the breast of the victim inappropriately, and attempted to insert his finger in the private part; that the doctor had further noted that there were no external injuries in the private part of the victim and the hymen was intact; that the complaint was motivated; that the victim and the mother of the victim in their statements given under Section 164 Cr.P.C., had stated that the petitioner touched the private part and had not spoken about the alleged penetrative sexual assault; and that the petitioner is in custody from 09.10.2023 and hence the sentence may be suspended.

5. The learned Government Advocate (Criminal Side) submitted that the evidence of the victim child is cogent and consistent; and that the prosecution had established its case beyond reasonable doubt and hence, petitioner should not be granted suspension of sentence.

6. Considering the submissions made by the learned counsel for the



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petitioner and finding force in the same, which require consideration in the above appeal; that the appeal is not likely to be taken up in the near future; that it has to be examined whether the conviction even for the offence of sexual assault can be based on the sole testimony of the victim, in the above appeal; and that the petitioner is in custody from 09.10.2023, this Court is inclined to grant the relief of suspension of sentence.

7. Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner, is suspended till the disposal of the criminal appeal and he 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, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu;

(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



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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 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.

9/12/2024

Note: Issue order copy by 16 .12.2024

mvs/ars

To

1. The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu
2. The Inspector of Police
Kannagi Nagar Police Station
Chennai 600 097.
3. The Superintendent, Central Prison, Puzhal 1.
4. The Public Prosecutor
High Court of Madras
Chennai.



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SUNDER MOHAN,J

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