



Crl.M.P.No.16658 of 2023 in Crl.A.No.1049 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **31.07.2024**

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

Crl.M.P.No.16658 of 2023

in

Crl.A.No.1049 of 2023

Banudurai,
S/o.Sampath

... Petitioner

Vs.

The State rep By.
Inspector of Police,
All Women Police Station,
Tiruvannamalai.

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 389(1) of Criminal Procedure Code, praying to suspend the sentence of imprisonment imposed in the judgment dated 11.08.2023 made in Spl.S.C.No.82 of 2020 on the file of Special Court (POCSO Cases), Tiruvannamalai District and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

For Petitioner : M/s.R.Thulasi

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor



Crl.M.P.No.16658 of 2023 in Crl.A.No.1049 of 2023

ORDER

WEB COPY

This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed against the petitioner by the learned Special Court (POCSO cases), Tiruvannamalai, Tiruvannamalai District vide judgment dated 11.08.2023 made in Special Sessions Case No.82 of 2020 and enlarge him on bail.

2. The trial court has convicted the petitioner/appellant for the following offence vide judgment dated 11.08.2023 in Spl.S.C.No.82 of 2020 :-

(i) u/s 451 of IPC to undergo rigorous imprisonment of 2 years with a fine of Rs.1,000/-, in default to pay the fine amount, was sentenced to undergo simple imprisonment for a further period of one month;

(ii) u/s 9(1) r/w 10 of POCSO Act to undergo rigorous imprisonment of 7 years with a fine of Rs.5,000/-, in default to pay the fine amount, was sentenced to undergo simple imprisonment for a further period of one year;

(iii) u/s 506(i) of IPC to undergo rigorous imprisonment of 2 years.

Aggrieved by the same, the petitioner has filed the above appeal along with this petition seeking suspension of sentence.



Crl.M.P.No.16658 of 2023 in Crl.A.No.1049 of 2023

WEB COPY

3. The learned counsel appearing for the petitioner submitted that the petitioner is the landlord and the mother of the victim girl and the victim girl are tenants of the petitioner. Due to tenancy dispute, mother of the victim has given a false complaint against the petitioner. Further, he submitted that there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. He further submitted that the petitioner has spent 63 days in the prison and he is in jail for the past 30 days and he is now confined in Central Prison, Vellore. Accordingly, he prays for suspension of sentence.

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that, on 12.06.2020, at about 12.30 p.m., the petitioner sexually assaulted the victim in the open terrace of his house and thereafter following the victim girl to her rental portion and against, sexually assaulted the victim girl and threatened her, thereby he committed the alleged offence. Hence, she opposed for grant of suspension of sentence.

5. Having regard to the fact that there are arguable points involved in the criminal appeal and further, the appeal is not likely to be taken up for final



Crl.M.P.No.16658 of 2023 in Crl.A.No.1049 of 2023

hearing in the near future and also considering the period of incarceration, I am of the considered opinion that the petitioner is entitled for the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that 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 Special Court (POCSO Cases), Tiruvannamalai District and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal. Further, the petitioner shall also appear before the respondent police at 10.30a.m. on every Monday, pending appeal.

7. Further, it is made clear that, if the petitioner indulges in similar offence in the future, the suspension of substantive sentence alone granted today will automatically stand dismissed without any further reference to this Court.



Crl.M.P.No.16658 of 2023 in Crl.A.No.1049 of 2023

WEB COPY

8. This Criminal Miscellaneous Petition is ordered accordingly.

9. Post the main criminal appeal in Crl.A.No.1049 of 2023 as per
seriatum.

31.07.2024

sp

To

- 1.The Special Court (POCSO Cases), Tiruvannamalai District.
- 2.The Inspector of Police, All Women Police Station, Tiruvannamalai.
- 3.The Superintendent, Central Prison, Vellore.
- 4.The Public Prosecutor, High Court of Madras, Chennai.



WEB COPY



Crl.M.P.No.16658 of 2023 in Crl.A.No.1049 of 2023

M.DHANDAPANI, J.

sp

Crl.M.P.No.16658 of 2023
in
Crl.A.No.1049 of 2023

31.07.2024