



Crl.M.P.No.14044 of 2024 in Crl.A.No.1254 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.14044 of 2024
in Crl.A.No.1254 of 2024

Ananthakumar

... Petitioner

Vs.

State represented by
Inspector of Police,
Tiruvannamalai Taluk Police Station,
Tiruvannamalai,
Tiruvannamalai District.
(Crime No.112/2021).

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, to suspend the execution of sentence of imprisonment imposed in the judgment passed against the petitioner/Appellant in the Spl.S.C.No.30 of 2021 dated 23.03.2023 on the file of the learned Sessions Judge, Special Court (POCSO Act) cases, Tiruvannamalai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner	:	Mr.K.Prabakar
For Respondent	:	Dr.C.E.Pratap, Government Advocate (Crl. Side)



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ORDER

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This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in Special S.C.No.30 of 2021, dated 23.03.2023 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 the prosecution is that the petitioner and the victim had a love affair; that the petitioner on the promise of marriage had taken the victim to various places and said to have committed penetrative sexual assault on the victim; that on the complaint given by the father of the victim, the case was initially registered as Girl Missing complaint and after securing the victim, the case was altered to offence under Section 376(2)(n) of IPC and Section 5(1) r/w 6 of the Protection of Children from Sexual Offences Act, 2012.

3.The petitioner was convicted for offences under Sections 366 and Sections 376(2)(n) of IPC & Section 6 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 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 and in so far as the offence under Section 376(2)(n) & Section 6 of Protection of Children from Sexual Offences Act, 2012, the petitioner was sentenced to undergo twenty 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 23.03.2023 made in Special S.C.No.30 of 2021.

4.Heard Mr.K.Prabakar, learned counsel for the petitioner and Dr.C.E.Pratap, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel for the petitioner would submit that admittedly, it is a case of love affair and the victim had gone voluntarily with the petitioner; that the Doctor, who first examined the victim, had recorded in the Accident Register that the victim had told him that she went with her



boyfriend and had sexual intercourse with her consent; that there is no external injuries suggesting forceful sexual intercourse; that there are several arguable points which requires consideration in the appeal; that there are contradictions in the evidence of the victim; that the petitioner was aged 24 years at the time of occurrence; that even if the alleged occurrence is accepted to be true, it only reveals a case of biological attraction between the petitioner and the victim due to mutual innocence; and that the petitioner is in custody from 23.03.2023 and was also in custody for a period of three months during investigation and prayed for suspension of sentence.

6.The learned Government Advocate (Crl. Side) *per contra* would submit that the prosecution had established that the petitioner had taken the victim to various places and had sexual intercourse with her; and that the consent is immaterial since the victim was aged 15 years at the time of occurrence and prayed for dismissal.



7.Considering the submissions made by the learned counsel for the petitioner; the fact that there are several arguable points which requires consideration in the appeal; that the petitioner is in custody from 23.03.2023, this Court is inclined to grant the relief of suspension of sentence.

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, 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



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(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.

05.12.2024

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To

- 1.The Sessions Judge,
Special Court (POCSO Cases),
Tiruvannamalai.
- 2.The Inspector of Police,
Tiruvannamalai Taluk Police Station,
Tiruvannamalai,
Tiruvannamalai District.
- 3.The Central Prison,
Vellore.
- 4.The Public Prosecutor,
Madras High Court.



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