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Crl.M.P.No.15114 of 2024 in Crl.A.No.1324 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.15114 of 2024
in Crl.A.No.1324 of 2024

A.Saravanan

... Petitioner/Sole Accused

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station,
Perambalur.
(Cr.No.9/2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C., to suspend the sentence imposed in Spl.S.C.No.16 of 2022 dated 12.09.2024 on the file of the learned Sessions Judge, Mahila Court, Perambalur and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.G.Ilamurugu

For Respondent : Dr.C.E.Pratap

Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by judgment and order dated 12.09.2024 passed in Spl.S.C.No.16 of 2022 on the file of the learned Sessions Judge, Mahila Court, Perambalur and to enlarge the



petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that on 11.03.2022 at about 11.00a.m., when the victim girl was sleeping in her house, the accused, who was the neighbour, entered into the house of the victim forcibly, closed the mouth of the victim and inserted his hands in the private part of the victim.

3. The petitioner was convicted for the offence under Sections 7 r/w 8 of the POCSO Act and sentenced by the trial Court to undergo rigorous imprisonment for five years and to pay a fine of Rs.50,000/-, in default to undergo rigorous imprisonment for one year.

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

5. The learned counsel appearing for the petitioner would submit that the case was originally registered for the offence under Sections 3(b) r/w 4 and 9(1) r/w 10 of the POCSO Act, and charges were also framed under Sections 5(1) r/w 6 of the POCSO Act, later, the charges were altered



after the witnesses were examined to Sections 7 r/w 8 of the POCSO Act; that the petitioner had established that the occurrence had not taken place on 11.03.2022, since the evidence of PW6-Headmaster, who had produced the Attendance Register of the victim would show that the victim was present in school on the alleged date of occurrence; that the medical evidence would show that the allegations are false; and that there are arguable points in the above appeal and therefore, the sentence imposed on the petitioner may be suspended.

6. The learned Government Advocate (Crl.Side) *per contra* submitted that the prosecution has established its case beyond reasonable doubt and the trial Court has rightly convicted the petitioner. Hence, he opposed the petition for grant of suspension of sentence.

7. (i) Admittedly the petitioner was in custody for a period of one year and three months from 28.03.2022 to 28.06.2023 during trial and now is in custody from the date of judgment i.e., from 12.09.2024. The petitioner has been sentenced to five years of rigorous imprisonment and had suffered imprisonment for nearly two years.



8. Considering the above, the submissions made by the learned counsel for the petitioner that there are arguable points in the appeal, which requires consideration; the period of incarceration and the fact that the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9. Accordingly, this criminal miscellaneous petition stands **allowed**. 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/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Perambalur;
- (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 the disposal of the appeal 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.



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SUNDER MOHAN, J.

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- To
1. The Sessions Judge,
Mahila Court, Perambalur.
 2. The Inspector of Police,
All Women Police Station,
Perambalur.
 3. The Superintendent of Prisons,
Central Prison, Trichy.
 4. The Public Prosecutor
Madras High Court.

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