



Crl.M.P.No.14066 of 2024 in Crl.A.No.1260 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.14066 of 2024
in Crl.A.No.1260 of 2024

Siva,
S/o.Elumalai

... Petitioner

Vs.

State rep. by
Inspector of Police,
Kannankurichi Police Station,
Salem City,
Salem District.
(Crime No.28/2019).

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence made in Spl.S.C.No.14 of 2022 on the file of Sessions Judge, Principal POCSO Court, Salem, dated 13.09.2024 and enlarge the petitioner on bail.

For Petitioner : Mr.J.Jayan

For Respondent : Mr.R.Vinothraja,
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.14 of 2022, dated 13.09.2024 on the file of the Sessions Judge, Principal POCSO Court, Salem and to enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution is that the petitioner had developed love with the victim girl which was one sided and he forced her to love him which was refused by her and that the brothers of the petitioner (A2 & A3) along with the petitioner went to the victim girl's house and threatened her stating that if she did not love the petitioner, they would throw acid on her face and that the petitioner dragged and hugged her with sexual intent.

3.The petitioner, who is arrayed as A1 in the above Sessions Case, was convicted and sentenced as follows:



<i>Rank of the Accused</i>	<i>Offence under Section</i>	<i>Conviction and Sentence</i>
A1	For offence under Section 7 r/w 8 of The Protection of Children from Sexual Offences Act, 2012.	The petitioner was sentenced to undergo Rigorous Imprisonment for five years and to pay a fine of Rs.1,000/- in default to undergo Rigorous Imprisonment for one year.
A1	For offence under Section 11(iv) r/w 12 of The Protection of Children from Sexual Offences Act, 2012.	The petitioner was sentenced to undergo Rigorous Imprisonment for three years and to pay a fine of Rs.1,000/- in default to undergo Rigorous Imprisonment for six months.
A1	For offence under Section 506(i) of IPC.	The petitioner to pay fine of Rs.2,000/-, in default to undergo Rigorous Imprisonment for one year.

4.Heard Mr.J.Jayan, learned counsel for the petitioner and Mr.R.Vinothraja, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel appearing for the petitioner would submit that the evidence of the victim girl does not inspire confidence and the contradictions in the evidence of the victim girl and other witnesses would show that the case of the prosecution cannot be believed. He would further



submit that the acquittal of A2 and A3 by the Trial Court would show that the version of the victim girl is exaggerated and her evidence cannot be believed.

6.The learned Government Advocate (Crl. Side) *per contra* submitted that the evidence of the victim girl and other prosecution witnesses had established the offences for which the petitioner was convicted and therefore the petitioner has not made out a ground for suspension of sentence.

7.On perusal of the evidence and judgment, this Court is of the view that the contradictions pointed out by the petitioner has to be appreciated at the time of final hearing since there are arguable points in the above appeal. Further the petitioner is in custody from 13.09.2024 and since 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.

8.Accordingly, this criminal miscellaneous petition stands allowed and



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the sentence imposed on the petitioner, is suspended 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, Principal POCSO Court, Salem.

(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 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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1.The Sessions Judge, Principal POCSO Court,
Salem.

2.The Inspector of Police,
Kannankurichi Police Station,
Salem City,
Salem District.

3.The Central Prison,
Salem.

4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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