



Crl.M.P.No,19856 of 2023 in  
Crl.A.No.1627 of 2023

Crl.M.P.No.19856 of 2023  
in Crl.A.No.1627 of 2023

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SUNDER MOHAN, J.

Today the matter is listed under the caption 'For Being Mentioned' at the instance of the learned counsel for the petitioner.

2.Mr.M.Nallathambi, learned counsel for the petitioner would submit that he was appointed as legal aid counsel for the petitioner by the High Court Legal Services Committee, Chennai and hence, the name of the petitioner's counsel may be changed in the order passed by this Court in Crl.M.P.No.19856 of 2023 in Crl.A.No.1627 of 2023 on 25.11.2024.

3.In view of the submission made, Registry is directed to issue a fresh certified copy of the order, dated 25.11.2024 in Crl.M.P.No.19856 of 2023 in Crl.A.No.1627 of 2023 after changing the petitioner's counsel as Mr.M.Nallathambi.

02.12.2024

*cse*

**Note: Issue the corrected order copy on 02.12.2024**

SUNDER MOHAN, J.



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*cse*

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02.12.2024



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**Crl.M.P.No.19856 of 2023**

**in**

**Crl.A.No.1627 of 2023**

D.Appusamy

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Petitioner /Accused

Vs.

State represented by  
Inspector of Police,  
All Women Police Station,  
Coonoor, Nilgiris District  
Tamilnadu.  
(Crime No.3 of 2016)

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C. praying to suspend the sentence imposed against the petitioner on 07.08.2023 in Spl. C.C No.3 of 2017 on the file of Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Udthagamandalam), Nilgiris at Udthagamandalam, Nilgiris District and release the petitioner on bail, til lthe disposal of the Criminal Appeal.

For Petitioner : Ms.Vinu Pradha

For Respondent : Dr.C.E Pratap,  
Govt. Advocate (Crl.side)



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## **ORDER**

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner on 07.08.2023 in Spl. C.C No.3 of 2017 by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Udthagamandalam), Nilgiris at Udthagamandalam, Nilgiris District and enlarge the petitioner on bail, pending disposal of main Criminal Appeal.

2. It is the case of the prosecution that the victim girls were studying in school in which the petitioner was working as Headmaster; that one Deepa working as a Protection Officer at the District Child Welfare Office had received an information that the petitioner had committed sexual assaults on the victim girls and on the complaint of the said Deepa, a case was registered in Crime No.3 of 2016 under Section 7, 8 of the POCSO Act. Though the final report was filed under Section 9 r/w 10 of POCSO Act, pending trial, the charges were altered to Section 5(l) r/w 6, 5(m) r/w 6, 5(f) r/w 6, 9(i) r/w 10, 9(m) r/w 10 and 9(f) r/w 10 of POCSO Act.



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3. The petitioner/accused in SplC.C.No.3 of 2017 was convicted by the Trial Court by judgment dated 07.08.2023 and sentenced for the offence under Section 9(l) r/w 10 (2 counts) of POCSO Act to undergo Rigorous Imprisonment for Seven years and to pay a fine of Rs.1000/-, and in default, to undergo Simple Imprisonment for six months on each count; under Section 9(m) r/w 10 (2 counts) of POCSO Act to undergo Rigorous Imprisonment for Seven years and to pay a fine of Rs.1000/-, in default, to undergo Simple Imprisonment for six months on each count, under Section 9(f) r/w 10 (2 counts) of POCSO Act to undergo Rigorous Imprisonment for Seven years and to pay a fine of Rs.1000/- and in default, to undergo simple imprisonment for six months on each count. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1627 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the prosecution case as regards aggravated penetrative sexual assault was disbelieved by the trial court and the trial court, however believed the



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evidence of PW2 & PW3, the victims as that the petitioner had kissed and touched their private parts, that the evidence of PW2 & PW3 is improbable; that the petitioner has been falsely implicated due to a dispute between the other teachers namely PW11 & PW12 who had induced PW9 to lodge a complaint to the Child Protection Officer; that there are arguable points in the above appeal; that the petitioner is in custody from 07.08.2023 and was in custody during trial for about a month.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) appearing for the respondent and perused the records.

6. Taking into consideration the submissions made by the learned counsel for the petitioner and finding force in the said submissions which requires consideration in the above appeal and also the fact that the petitioner is in custody from 07.08.2023, this court is inclined to grant the relief of suspension of sentence to the petitioner.

7. Accordingly, this criminal miscellaneous petition stands **allowed**



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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/-, with two sureties, each for a like sum to the satisfaction of the learned the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Udhagamandalam), Nilgiris at Udhagamandalam, Nilgiris District ;
- (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
- (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.

**25.11.2024**

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**Issue order copy by 27.11.2024**  
**Upload the order copy forthwith.**



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**SUNDER MOHAN, J.**

rgr

To

1.The Sessions Judge,  
Magalir Neethimandram  
(Fast Track Mahila Court),  
Udhagamandalam),  
Nilgiris at Udhagamandalam,  
Nilgiris District.

2. The Superintendent,  
Central Prison,  
Coimbatore.

3.The Inspector of Police,  
All Women Police Station,  
Coonoor, Nilgiris District  
Tamilnadu.

4.The Public Prosecutor,  
High Court, Madras.

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