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*Crl.M.P.No.17016 of 2024 in
Crl.A.No.782 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.17016 of 2024
in Crl.A.No.782 of 2024

Jayaraman

...

Appellant/Accused

Vs.

State represented by
The Inspector of Police,
W-24, All Women Police Station,
Teynampet,
Chennai – 600 035.
(Crime No.5 of 2021)

... Respondent / Complainant

Prayer : Criminal Miscellaneous Petitions has been filed under Section 389 (1) of Cr.P.C. / 430 (1) of BNSS praying to suspend the sentence imposed in Special S.C.No.18 of 2022 dated 15.12.2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner : Mr.S.Manoharan

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 in Special S.C.No.18 of 2022 dated 15.12.2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai and enlarge the petitioner on bail, pending disposal of the appeal.

2. It is the case of the prosecution is that the petitioner is the father of the victim and that the victim was living with the petitioner, her mother and brother; that from the year 2013, the petitioner used to call the victim child and make her hold his private part; and that the victim, out of fear and embarrassment, did not disclose the same to any person and after she attained majority, she gave the complaint.

3. The petitioner/accused in Spl.S.C.No.18 of 2022 was convicted by the Trial Court by judgment dated 15.12.2022 under Section 10 of POCSO Act and sentenced to undergo Imprisonment for 7 years and to pay a fine of Rs.5,000/- and in default of payment of fine thereof, to undergo further period of 3 months simple imprisonment and under and 506 (ii) of IPC and sentenced



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to undergo Imprisonment for 2 years. Aggrieved by the same, the petitioner/accused filed Crl.A.No.782 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the petitioner was sentenced to seven years imprisonment; and that he is in custody from 19.09.2021; and that there are several arguable points in the above appeal which requires consideration and considering the delay in the complaint and period of incarceration, the sentence may be suspended.

5. The learned Government Advocate (crl.side), per contra submitted that the prosecution had established its case beyond reasonable doubt and that there is no reason for the victim to accuse her own father and hence no case has been made out for suspension of sentence.

6. Heard both sides and perused the records.

7. Admittedly, the petitioner is in custody from 19.09.2021 and has served almost half of the sentence imposed by the Trial Court. The petitioner has also raised substantial grounds which requires consideration in the above



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appeal. Hence, this court is inclined to grant the relief of suspension of sentence to the petitioner.

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/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai ;
- (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.

03.12.2024

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Issue order copy by 04.12.2024
Upload the order copy forthwith.



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To

1. The Sessions Judge,
Special Court for Exclusive Trial of
cases under POCSO Act, Chennai

2.The Inspector of Police,
W-24, All Women Police Station,
Teynampet,
Chennai – 600 035.

3.The Superintendent of Police
Central Prison,
Puzhal I, Chennai.

4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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