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*Crl.M.P.No.16490 of 2024 in
Crl.A.No.981 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **12-12-2024**

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL MP. NO.16490 of 2024 IN CRL A. NO.981 OF 2024

MOORTHY

S/O.RAMACHANDRAN,
NO.4/529, 2ND STREET, NETHAJI GARDEN,
RAMAKRISHNA GARDEN, VADAMADURAI,
COIMBATORE DISTRICT.

APPELLANT(S)

Vs

STATE REP. BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, EAST,
COIMBATORE CITY, COIMBATORE.
CRIME NO.15 OF 2021

RESPONDENT(S)

For Appellant(s) : MR.M.N.BALAKRISHNAN

For Respondent(s): DR.C.E.PRATAP,

GOVT.ADVOCATE(CRL.SIDE)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in Spl.C.C.No.85 of 2021 passed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore dated 30.01.2024 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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2. It is the case of the prosecution that the petitioner is the uncle of the victim; that the victim girl had gone to the house of the petitioner on 11.01.2021, that on the night intervening 12/13.01.2021, at 2.30 a.m., when the victim was sitting in the hall, the petitioner is said to have scolded the victim saying that she was chatting with boys; and that it was wrong; that he would complain to her father about the same; that thereafter the petitioner removed the victim girl's t-shirt and slip, fondled the breasts of the victim and kissed her with sexual intention.

3. The petitioners/accused in Spl.S.C.No.85 of 2021 was convicted by the Trial Court under Section 10 of POCSO Act and was sentenced to undergo Rigorous Imprisonment for Seven years and to pay a fine of Rs.10,000/- and in default of payment of fine thereof, to undergo Simple Imprisonment of one year and under Section 506(i) of IPC, sentenced to undergo Rigorous Imprisonment for Two years. Aggrieved by the same, the petitioners/accused filed Crl.A.No.981 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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4. The learned counsel for the petitioner would submit that the petitioner has been falsely implicated only because he had scolded the victim; that there is no evidence apart from the sole testimony of the victim; that there are several arguable points in the above appeal which requires consideration; and that the petitioner is in custody from 13.01.2021.

5. The learned Government Advocate (crl.side), per contra submitted that the prosecution had established its case beyond reasonable doubt and that no ground has been made out for suspension of sentence.

6. Heard both sides and perused the records.

7. Considering the fact that the petitioner has raised substantial grounds in the above appeal which requires consideration; that the appeal is not likely to be taken up in the hear future; and that the petitioner is in custody from 13.01.2021, this court is inclined to grant the relief of suspension of sentence to the petitioner.



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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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore ;
- (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.

12.12.2024

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Issue order copy by 16.12.2024
Upload the order copy forthwith.



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SUNDER MOHAN, J.

rgt

To

1. The Sessions Judge,
Principal Special Court for
Exclusive Trial of Cases
under POCSO Act, Coimbatore.

2. The Inspector of Police,
All Women Police Station East,
Coimbatore City, Coimbatore.

3. The Superintendent
Central Prison,
Coimbatore.

4. The Public Prosecutor,
High Court, Madras.

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IN CRLA No.981 OF 2024**

12.12.2024