



CRL MP. 16914 of 2024 in
CRL A NO.702 OF 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **17-12-2024**

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THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL MP NO. 16914 of 2024

in CRL A.NO.702 OF 2024

Vignesh

S/o. Tamilarasu, 86/10c Annai Indra Nagar,
Chinnakollam Patty, Salem - 636 008.

Appellant(s)

Vs

The State Rep By Its,
The Inspector Of Police, All Women Police
Station, Ammapet, Salem City.

Respondent(s)

For Appellant(s): Mr.A.Natarajan, Senior Counsel

for Ms.A.Madhumathi

For Respondent : 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.S.C.No.292 of 2022 vide judgment dated 24.01.2024 convicting the appellant for an offence u/s 9(m) r/w 10 and 9(1) r/w 10 of POCSO Act , 2012 by the learned Sessions Judge, Principal POCSO Court, Salem and enlarge him on bail, pending disposal of the above Criminal Appeal.



CRL MP. 16914 of 2024 in
CRL A NO.702 OF 2024

WEB COPY

2. The case of the prosecution is that the victim was aged about 8 years at the time of occurrence; that on 27.03.2022 when the victim went to the house of the petitioner at about 5.30 hours, the petitioner, with sexual intention made the victim sit on his lap, pinched over her abdomen, rubber over her breast and placed his hand over her private part; that the victim had informed her neighbour who was a law student, who it turn informed the mother of the victim and thereafter a complaint was lodged against the petitioner.

3. The petitioner/Accused in Spl.S.C.No.292 of 2022 was convicted by the Trial Court for the offence under Section 9(m) r/w 10 and 9(1) r/w 10 of POCSO Act and sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1000/- for each of the offence, in default to undergo one year rigorous imprisonment for each of the offence. Aggrieved by the same, the petitioner/accused filed Crl.A.No.702 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Mr.A.Natarajan, learned Senior Counsel for the petitioner would submit that though the earlier bail application was dismissed, the petitioner has raised substantial grounds which requires consideration; that though the



CRL MP. 16914 of 2024 in
CRL A NO.702 OF 2024

earliest information was given to the neighbour of the victim, the said neighbour was not examined by the prosecution; that the prosecution rests on the sole testimony of the victim and the question as to whether the victim can be believed has to be considered by this court in the above appeal and considering the period of incarceration, the sentence may be suspended.

5. Heard the learned Govt. Advocate (crl.side) and perused the counter affidavit filed by the State.

6. The learned Government Advocate (crl.side) appearing for the respondent per contra submitted that the victim's evidence is cogent and convincing; that there is no reason for the victim to falsely implicate the petitioner; that the trial court had rightly convicted the petitioner for the offence under Sections 9(m) r/w 10 and 9(1) r/w 10 of POCSO Act and prayed for dismissal of the petition.

7. This Court had dismissed the first bail application on 20.06.2024. However, the petitioner is in custody from 24.01.2024. The victim is said to have complained to her neighbour about the occurrence. The said neighbour has not been examined by the prosecution. In a case of this nature, one



CRL MP. 16914 of 2024 in
CRL A NO.702 OF 2024

WEB COPY

cannot expect corroboration from the medical evidence. Therefore the case rests on the sole testimony of the victim. This Court has to examine whether there can be a conviction on the sole testimony of the victim.

8. Considering the fact that the petitioner has raised substantial grounds in the above appeal which requires consideration; that the petitioner is in custody from 24.01.2024 and 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** 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 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; and



CRL MP. 16914 of 2024 in
CRL A NO.702 OF 2024

WEB COPY

(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.

17.12.2024

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Issue order copy by 17.12.2024
Upload the order copy forthwith.

To

1. The Sessions Judge,
Principal POCSO Court, Salem
2. The Inspector Of Police,
All Women Police Station, Ammapet,
Salem City.
3. The Superintendent
Central Prison, Salem.
4. The Public Prosecutor,
High Court, Madras.



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CRL MP. 16914 of 2024 in
CRL A NO.702 OF 2024

SUNDER MOHAN, J.

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CRL MP NO. 16914 of 2024
in CRL A.NO.702 OF 2024

17.12.2024