



CRL MP(MD) No.270 of 2024

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)**

Tuesday, the Nineteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.270 of 2024

in

CRL A(MD)No. 859 of 2023

KARTHIKEYAN

... PETITIONER/ APPELLANT

Vs

**THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
OTTANCHATHIRAM,
DINDIGUL DISTRICT.
CRIME NO. 1 OF 2020**

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of the substanvie sentence imposed against the petitioner/appellant in Spl.SC.No.30/2023 dated 18.07.2023 on the file of the learned Special Court(POCSO Act Cases) Dindigul and enlarge him on bail pending disposal of the instant criminal apael.

PRAYER IN CRL A(MD)No. 859 of 2023:

Pleased to call for the records relating to the order of conviction and sentence dated 18.07.2023 passed by the Learned Special Court (POCSO Act Cases), Dindigul in Spl.S.C.No.30 of 2023 and set aside the same.



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Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.V.SASI KUMAR, Advocate for the petitioner and of MR.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul, in Spl.S.C.No.30 of 2023 dated 18.07.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner along with other accused in Crime No.1 of 2020, on the file of the respondent/Inspector of Police, All Women Police Station, Ottanchathiram, Dindigul District, for the offences punishable under Section 323, 294 (b), 506(i) of IPC and Section 6 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and the same was taken on file in Spl.S.C.No.30 of 2023 before the learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul. The petitioner was convicted and sentenced to undergo three year rigorous imprisonment for the offence under Section 323 of IPC, to undergo one month rigorous imprisonment for the offence under Section 294(b) of IPC, to undergo three months rigorous imprisonment for the offence



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under Section 506(i) of IPC and to undergo 20 years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) with one year simple imprisonment in case of default for the offence under Section 6 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the victim girl deposed that she sustained blood injury and her blood stained clothes were handed over to the police, however, P.W.15 Investigation Officer deposed that she has not received the cloth from the victim girl. On the side of the prosecution, the birth certificate of the victim girl was not marked. He further submitted that the trial Court failed to note that the vital discrepancies made in the deposition of witnesses and also that the prosecution has miserably failed to prove the charges beyond reasonable doubts. The petitioner is in judicial custody from 18.07.2023 and hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Additional Public Prosecutor appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled



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against the petitioner/accused are serious in nature. At the time of occurrence, the victim girl was a minor and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner and hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 18.07.2023 and further the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul, in Spl.S.C.No.30 of 2023, dated 18.07.2023, alone is suspended, subject to the following stringent conditions :-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty



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Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul;

ii) 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 to ensure their identity;

iii) The petitioner shall appear and sign before the concerned Court daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

(iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
19/03/2024

/ TRUE COPY /

21/03/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM
TO
1 THE SESSIONS JUDGE
SPECIAL COURT (POCSO ACT CASES), DINDIGUL.



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- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
OTTANCHATHIRAM,
DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-3402[I] dated 20/03/2024)

ORDER
IN
CRL MP(MD) No.270 of 2024
in
CRL A(MD)No. 859 of 2023
Date :19/03/2024

PKP/21.03.2024/ 6P/6C

Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023