



Crl.M.P.(MD) No.1099 of 2024

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

Wednesday, the Thirteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.1099 of 2024

in

Crl.A(MD) No.83 of 2024

YUVARAJ

...PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE  
KODAIKANAL POLICE STATION,  
KODAIKANAL,  
DINDIGUL DISTRICT.  
CRIME NO.462 OF 2021.

... 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 Sentence imposed on the Petitioner by the Special Court for Exclusive Trial of Cases under POCSO Act,Dindigul in Spl.SC.No.85 of 2023 by the judgment dt.1.8.2023 and enlarge the Petitioner on bail pending disposal of the above appeal.

PRAYER IN Crl.A(MD) No.83 of 2024:

To call for the records and set aside the judgment dated 01.08.2023 passed in Special S.C.No.85 of 2023 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul and acquit the appellant.

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.N.PRAGALATHAN, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul, in Spl.S.C.No.85 of 2023 dated 01.08.2023 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.462 of 2021, on the file of the respondent/Inspector of Police, Kodaikanal Police Station, Kodaikanal, Dindigul District, for the offences punishable under Section 324 of IPC and Section 10 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.85 of 2023 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul. The petitioner was convicted and sentenced to undergo one year rigorous imprisonment for the offence under Section 324 of IPC and to undergo five years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) with three months simple imprisonment in case of default for the offence under Section 10 of POCSO Act.



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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 petitioner and the victim loved each other and the trial Court failed to note that the ingredients of Section 9 of the POCSO Act had not been proved by the prosecution and the other complaints given before the respondent Police was suppressed by the prosecution. 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 01.08.2023 and hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. side) appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled 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.



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5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate 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 01.08.2023 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 Exclusive Trial of Cases under POCSO Act, Dindigul, in Spl.S.C.No.85 of 2023, dated 01.08.2023, 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 Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Dindigul;



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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 Exclusive Trial of Cases under POCSO Act, Dindigul.

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

sd/-  
13/03/2024

/ TRUE COPY /

14/03/2024  
Sub-Assistant Registrar (CS - IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

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TO

1.THE SESSIONS JUDGE,  
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,  
DINDIGUL,

2.THE INSPECTOR OF POLICE  
KODAIKANAL POLICE STATION,  
KODAIKANAL, DINDIGUL DISTRICT.



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3.THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.N.PRAGALATHAN, Advocate ( SR-3152[I] dated 13/03/2024 )

ORDER  
IN  
Crl.M.P.(MD) No.1099 of 2024  
in  
Crl.A(MD) No.83 of 2024  
Date :13/03/2024

RK (14/03/2024) 6P / 6C

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