



CRL MP(MD) No.2902 of 2024

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

Thursday, the Twenty First day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.2902 of 2024

in

CRLA(MD)No. 231 of 2023

RANJITHKUMAR

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
PUDUR CIRCLE,
THOOTHUKUDI DISTRICT.
(SANKARALINGAPURAM POLICE STATION
IN CRIME NO.10/2023)

... 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 of Imprisonment imposed by the Learned Sessions Judge Special Court for Exclusive Trial of Cases under POCSO Act Thoothukudi in Special Sessions Case No.246/2019 by the judgment dated 09.02.2023 and enlarge the Petitioner/ Appellant on bail, pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD)No. 231 of 2023:

Pleased to call for Record and set aside the judgment and conviction dated 09.02.2023, by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Thoothukudi in Spl.S.C.No.246 of 2019 and acquit the appellant.



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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.D.SRINIVASARAGAVAN, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, 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 Exclusive Trial of Cases under POCSO Act, Thoothukudi, in Spl.S.C.No.246 of 2019 dated 09.02.2023 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 in Crime No.10 of 2023, on the file of the respondent/Inspector of Police, Sankaralingapuram Police Station, Kadambur, Pudur Circle, Thoothukudi District, for the offences punishable under Section 4 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.246 of 2019 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi. The petitioner was convicted and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) for offence under Section 4 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal



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Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submitted that the trial Court failed to note the fact that though the prosecution has alleged that the victim girl was aged 15 years, they have miserably failed to prove the age of the victim girl. He further submitted that the prosecution has neither recovered nor produced the Transfer Certificate or the Birth Certificate of the victim girl before the trial Court. He further submitted that the trial Court without considering the same, has given a finding that the victim girl was aged 15 years at the time of occurrence. There is no evidence to prove the charge levelled against the petitioner and the prosecution has not established its case beyond reasonable doubts. He further submitted that the delay in lodging the FIR has not been properly explained and the consent given by the victim girl was not at all taken into account by the trial Court. The petitioner is in judicial custody from 09.02.2023. 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 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. This is the third bail



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application. The earlier applications filed by the petitioner were dismissed by this Court by passing an elaborate order and the present petition has been filed mainly on the ground that the petitioner was in judicial custody from 09.02.2023.

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 09.02.2023 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 Exclusively Trial of Cases under POCSO Act, Thoothukudi, in Spl.S.C.No.246 of 2019 dated 09.02.2023 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



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for Exclusive Trial of Cases under POCSO Act, Thoothukudi;

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 learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi.

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

sd/-
21/03/2024

/ TRUE COPY /

25/03/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM
TO

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



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- 2 THE INSPECTOR OF POLICE
PUDUR CIRCLE, THOOTHUKUDI DISTRICT.
(SANKARALINGAPURAM POLICE STATION)
- 3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-3490[I] dated 21/03/2024)

ORDER
IN
CRL MP(MD) No.2902 of 2024
in
CRLA(MD)No. 231 of 2023
Date :21/03/2024

PKP/25.03.2024/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified
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