



Cr1.MP(MD)No.2605 of 2024 in Cr1.A(MD)No.1013 of 2023

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner/A1 in Special SC No.21 of 2020, dated 18/02/2023 passed by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that the first accused, who is the petitioner herein kidnapped the victim girl, who is aged about 14 with the help of the other accused and forcibly tied tali. Later, she was subjected to forcible penetrative sexual assault on several time. As a result of which, she has become pregnant. On the basis of the complaint given by the de-facto complainant the father of the victim girl, a case in Crime No.216 of 2019 was registered by the respondent police against A1 for the offences under sections 366(A) IPC, 5(1), 5(j)(ii), 6(2 counts) of POCSO Act, 2012 and section 8 of Prohibition of Child Marriage Act 2026; and against A2 under section 366(A) r/w 109 IPC and section 6 r/w 17 of POCSO Act; and against A3 to A5 for the offence under section 466(A) r/w 109 IPC and section 6 r/w 17 of POCSO Act and section 9 of the Prohibition of Child Marriage Act, 2016.



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3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.21 of 2020 by the Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur.

4.On the side of the prosecution, 17 witnesses were examined and 17 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5.At the conclusion of the trial process, the trial court found the petitioner/A1 guilty of the offence and sentenced him to undergo 20 years RI and to pay a fine of Rs.10,000/-, in default, to undergo 1 year RI for the offence under offence under section 5(1), 5(j)(ii) of POCSO Act 2012 punishable under section 6 of POCSO Act 2012; and sentenced to undergo 5 years RI and to pay a fine of Rs.5,000/-, in default to undergo 3 months RI and also sentenced to undergo one year RI and to pay a fine of Rs.5,000/- in default to undergo 2 months RI for the offences under section 9 of the Prohibition of Child Marriage Act and directed to run the sentences concurrently.



6.Challenging the conviction and sentence, this appeal is preferred by the appellant. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner seeking suspension of sentence.

7.Heard both sides.

8.Perusal of the records shows that the victim girl is closely related to this petitioner. For about two months, the victim girl was staying with the petitioner. Only after two months, the victim girl intimated to her father namely the de-facto complainant about the occurrence. The other accused are also closely related to PW1, PW2 and PW5.

9.Whether the petitioner performed the marriage of the victim girl, who is aged about 14 against the wish of the parents and whether the age of the victim was brought to the notice that she was aged about 14, are all the matters for consideration in the main appeal. But the fact is that for about two months, the victim girl was staying with the petitioner. During that period, she did not make any complaint against any one. This fact was brought during the course of trial and investigation.



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10. Whether under these circumstances, the finding recorded by the trial court is correct or not, is the only point to be decided in the main appeal.

11. Considering the above said facts and the period of incarceration and also considering the fact that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, this criminal miscellaneous petition is **allowed** and the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 am until further orders.

11/09/2024

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Sessions Judge,
Principal Special Court
for Exclusive Trial of cases under POCSO Act,
Thanjavur,
- 2.The Inspector of Police,
Ammapettai Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Superintendent,
Central Prison,
Trichy.



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