



CRL.M.P.(MD)No.2811 of 2024

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

Friday, the Twentieth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.2811 of 2024

in

CRL.A.(MD)No.193 of 2024

SURESHKUMAR

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
NAGECOIL,
KANYAKUMARI DISTRICT.
CRIME NO 16/2016.

... 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 enlarge the Petitioner on bail by suspending the sentence imposed by the Sessions Judge Special Court for POCSO Act, Nagercoil, Kanyakumari District made in Spl SC No.9/2017 by judgment dt.07.11.2023, pending the disposal of the main Crl A.

Prayer in CRL.A.(MD)No.193 of 2024:

To call for the records in the judgment of the Sessions Judge, Special Court for POCSO Act, Nagercoil, Kanyakumari District made in Spl.S.C.No.9 of 2017 on his file dated 07.11.2023 and set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.P.SIVACHANDRAN, Advocate for the petitioner and of MR.R.MEENAKSHISUNDARAM, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-



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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for POCSO Act, Nagercoil, Kanyakumari District dated 07.11.2023, in Spl.S.C.No.9 of 2017 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2. The victim girl P.W.1, lodged a complaint stating that she was working in a company situated in Thambathukonam. The accused became very friendly with her through one Mary. On 06.05.2016, the accused compelled her to come out of the company and kidnapped her in a bike to his house. From there she was taken to Thoivalai to his friend's house. In the night at his friend Ramesh Kumar's house, she was subjected to sexual abuse, by promising to marry her. After that he went out of the house but did not return back. So she lodged a complaint. Based upon the complaint, a case in Crime No.16 of 2016 was registered for the offences punishable under Section 366 and Section 11(4) read with Section 12 and 5(l) and Section 6 of POCSO Act.

3. The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 3(a) r/w 4 (1) of POCSO Act and sentenced him to undergo 12 years rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo one year rigorous imprisonment



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and 7 years of rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo 6 months rigorous imprisonment for offence under Section 366 of IPC . The sentences were ordered to run concurrently. Set off under Section 428 Cr.P.C. is also ordered.

4. Seeking suspension of sentence this petition has been filed by the petitioner stating that at the time of occurrence, the victim was aged about 17 years. It is a love marriage between them. Suppressing the fact, a false complaint has been lodged.

5. Learned Government Advocate would submit that taking advantage of the immaturity of the girl, she was subjected to sexual abuse and she was aged about 17 years at the time of occurrence.

6. Perusal of records would show that on the date of occurrence, the victim girl is aged about 17+ years. Her evidence shows that she was in love with the petitioner. It is not a case of kidnapping, but it is a case of elopement. She did make any objection when she was taken to various places. Only on her information, the petitioner came to that place. Prima facie evidence does indicate that it is a case of love affair but what happened after that it not clear and it is a matter for consideration in the appeal.



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7. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the fact the petitioner are already enlarged on bail by the trial Court, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Judge, Special Court for POCSO Act, Nagercoil, Kanyakumari District, and on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal.

sd/-
20/09/2024

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20/09/2024
Sub-Assistant Registrar (AE)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pnn

TO

1. THE JUDGE,
SPECIAL COURT FOR POCSO ACT,
NAGERCOIL, KANYAKUMARI DISTRICT,

<https://www.mhc.tn.gov.in/judis>



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2.THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
NAGECOIL,
KANYAKUMARI DISTRICT.

3.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1 CC to M/s.S.ALAGUSUNDAR, Advocate (SR-11505[I] dated 20/09/2024)

ORDER
IN
CRL.M.P.(MD)No.2811 of 2024
in
CRL.A.(MD)No.193 of 2024
Date :20/09/2024

RK (20/09/2024) 5P / 6C

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