



CRL MP(MD) No.2752 of 2024

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

Friday, the Twenty Second day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.2752 of 2024
in
CRL A(MD)NO.796 of 2022

V.ARUNKUMAR

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PAPANASAM,
THANJAVUR DISTRICT.
CRIME NO.6 OF 2019.

... RESPONDENT/COMPLAINANT

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 dt.21.9.2022 passed in Spl.SC.No.2 of 2020 against the Appellant by the Special Court for Exclusive Trial of Cases under POCSO ACT,Thanjavur and the Appellant who was remanded to Judicial Custody after judgment may be released on bail till pending disposal of the above appeal.

PRAYER in CRL A(MD)NO.796 of 2022:

To call for the records and set aside the order of conviction and sentence passed on him by Special Court for Exclusive Trail of Cases under POCSO Act, Thanjavur in Spl.S.C.No.02 of 2020 dated on 21.09.2022 and allow this Criminal Appeal.



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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.K.P.S.PALANIVELRAJAN, Senior counsel for Mr.A.SENTHILKUMAR, 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, Thanjavur, in Spl.S.C.No.02 of 2020 dated 21.09.2022 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.6 of 2019, on the file of the respondent/Inspector of Police, All Women Police Station, Papanasam, Thanjavur District, for the offences punishable under Section 366 of IPC and Section 3(a) r/w. 4(2) 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.02 of 2020 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur. The petitioner was convicted and sentenced to undergo five years rigorous



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imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) with three months rigorous imprisonment in case of default for the offence under Section 366 of IPC and to undergo ten years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) with one year rigorous imprisonment in case of default for the offence under Section 3(a) r/w. 4(2) 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 trial Court failed to note that there was a dispute between the petitioner and the victim's uncle namely, Bala just 15 days prior to the complaint. He further submitted that the trial Court failed to consider the contradiction statement of the P.W.1 and P.W.3 regarding previous dispute between the victim's uncle and the petitioner. He further submitted that the trial Court failed to note 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 21.09.2022 and hence, the learned counsel prays for suspension of sentence of the petitioner.



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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 aged about 5 years and the petitioner sexually misbehaved to the victim girl 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 *prima facie* feels that that there are arguable points involved in this criminal appeal. Moreover, the petitioner has been in incarceration from 21.09.2022 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.



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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, Thanjavur, in Spl.S.C.No.2 of 2020 dated 21.09.2022 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, Thanjavur.

(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, Thanjavur.

(v) The petitioner is directed to pay the fine amount immediately, as directed by the Court below, if any.



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

sd/-
22/03/2024

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26/03/2024

Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

TO

- 1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, THANJAVUR.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PAPANASAM,
THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.A.SENTHIL KUMAR, Advocate (SR-3554[I] dated 22/03/2024)



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ORDER
IN
CRL MP(MD) No.2752 of 2024
in
CRL A(MD)NO.796 of 2022
Date :22/03/2024

SS/SAR- /26/03/2024/7P/6C

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