



CRL MP(MD) No.3262 of 2024

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

Thursday, the Twelfth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.3262 of 2024

IN

CRL A(MD) No.402 of 2022

ESAKKIPANDI

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
PALAYAMKOTTAI,  
TIRUNELVELI DISTRICT.

CRIME NO. 17 OF 2017

... RESPONDENT/ 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 Execution of sentence by granting bail in Special C.C no. 54/2019 dt. 10.06.2022 on the file of the Learned Sessions Judge and Special court for protection of Children from the Sexual Offence Act cases, Tirunelveli till the disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.402 of 2022 :

To admit this appeal on file, to call for the records from the lower court in Special S.C.No.54/2019 on the file of Sessions Judge & Special Court for protection of Children from the Sexual Offence Act Cases, Tirunelveli District and set aside the judgment dated 10.06.2022 by acquitting the accused and by allowing the Appeal.

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.V.KATHIRVELU, Senior Counsel for MR.K.PRABHU, Advocate for the



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petitioner and of MR.M.SAKTHI KUMAR, Government Advocate (CrI.Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Special Court for POCSO Act cases, Tirunelveli District, dated 10/06/2022, in Special S.C.No.54 of 2019 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

**2.The case of the prosecution in brief:-**

The victim was aged about 16 years at the time of the occurrence. On 22/11/2017, after purchasing geometry box, she was waiting in the Bus Stand. At that time, the accused approached the victim, shared his cellphone number and also told to talk to him. Believing the words of the accused, she was waiting in the Bus Stand on 29/11/2017 at about 03.00 pm. From there, she was taken to the Tirunelveli Junction and later stayed in the accused house. At that time, she was subjected to sexual intercourse. Later, she was taken to the Bus Stand and left there. On the basis of the complaint given by the PW1, the mother of the victim, a case in Crime No.17 of 2017 was registered by the respondent police for the offences under sections 6 of POCSO Act, 2012.

3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special CC No.54 of 2019 by the Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli.



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4. Before the trial court, on the side of the prosecution, 7 witnesses were examined and 25 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 accused guilty of the offence under section 6 of POCSO Act, 2012 and sentenced him to undergo 20 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo rigorous imprisonment for a period of one year.

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. The earlier two applications came to be dismissed by this court stating that the judgment was of recent origin.

9. Now the learned Senior counsel appearing for the petitioner would submit that except section 164 Cr.P.C statement of the victim girl, no other material evidence is available on record; Even the parents of the victim and the victim herself turned hostile; The trial court recorded a finding on circumstantial evidence.

10. Per contra, the learned Government Advocate (Criminal side) would submit that the petitioner sexually misbehaved with the victim girl and enough material is



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available and the trial court has rightly convicted the petitioner. So, no indigence need be shown.

11. Whether in the absence of any direct evidence, the judgment of conviction and sentenced rendered, Whether that is legal is the only point to be decided in the main appeal.

12. 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 POCSO Act cases, Tirunelveli 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.

sd/-

12/09/2024

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12/09/2024

Sub-Assistant Registrar  
Madurai Bench of Madras High Court,  
Madurai - 625 023.



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TO

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1 THE SESSIONS JUDGE, SPECIAL COURT FOR POCSO ACT CASES,  
TIRUNELVELI DISTRICT.

2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,  
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

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

ORDER

IN

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IN

CRL A(MD) No.402 of 2022

Date :12/09/2024

RS//SAR-(12.09.2024) 5P 5C

Madurai Bench of Madras High Court is issuing  
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