



CRL MP(MD) No.7701 of 2023

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

Thursday, the Eleventh day of January Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH
CRL MP(MD) No.7701 of 2023
in
CRL A(MD) No.415 of 2023

R.SUBRAMANIAN

... APPELLANT/ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THIRUPPARANKUNDRAM,
CRIME NO.14/2020.

... 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 imposed on the petitioner vide Judgment in Spl.S.C.No.56/2020 dated 16.11.2022 by the Court of the Session Judge, Principal Special Court for Exclusive Trial of Cases Under POCSO Act, Madurai in AWPS, Thirupparankundram Cr.No.14/2020 do hereby and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD).415/2023 :

To call for the records relating to Judgment dated 16.11.2022 made in Spl.S.C.No.56/2020 by the Court of the Session Judge, Principal Special Court for Exclusive Trial of Cases Under POCSO Act, Madurai in A.W.P.S. Thirupparankundram Cr.No.14/2020 and set aside the same.

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 M/S.MOHAN V.R.G., Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend



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the sentence passed against him by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, in Spl.S.C.No.56 of 2020 dated 16.11.2022 and to enlarge him on bail, pending disposal of the Criminal Revision Case.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.14 of 2020, on the file of the respondent/Inspector of Police, A.W.P.S. Thirupparankundram, for the offences punishable under Sections 9(m) read with 10 of POCSO Act and the same was taken on file in Spl.S.C.No.56 of 2020 before the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai. The petitioner was convicted and sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.1,000/- with six months simple imprisonment in case of default. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner would submit that the petitioner has not at all committed any offence as alleged by the prosecution and without properly analyzing the evidence put-forth by the prosecution, the trial Court convicted the petitioner erroneously. The learned counsel further submitted that the petitioner was



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affected by the paralytic attack on his right hand and thereby, his limb movements are restricted and cannot walk without the support of stick and he could not mobilize freely. Further, the petitioner's wife had also undergone surgery on her right knee, so she could not walk freely. Therefore, the learned counsel prays for suspension of sentence of the petitioner. He has further submitted that the petitioner is in Central Prison, Madurai, for the past 391 days.

4. The learned Government Advocate (Crl. Side) appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature and the victim girl aged 7 years has clearly deposed about the incident and hence, there is nothing to discard the testimony of the victim and her evidence inspires confidence. As regards the health condition of the petitioner, the learned Government Advocate has produced the medical record issued by the Prison authority and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

6. The petitioner has raised substantial grounds in the appeal, which require detailed appraisal. Moreover, the petitioner is incarceration from 16.11.2022 and he is



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also suffering from various ailments. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

7. Considering the facts and circumstances of the case and also taking note of the ill-health of the petitioner, this Court is of the view to suspend the sentence alone of the petitioner, but however, on stringent conditions.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, in Spl.S.C.No.56 of 2020 dated 16.11.2023 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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai.

ii) The petitioner shall appear and sign before the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, everyday at 10.30 a.m., and 5.30 p.m., until further orders.

iii) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Sessions Judge, Principal Special



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Court for Exclusive Trial of Cases under POCSO Act, Madurai.

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

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12/01/2024

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

RM
TO

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

ORDER IN
CRL MP(MD) No.7701 of 2023
in CRL A(MD) No.415 of 2023
Date :11/01/2024

RS//SAR-(12.01.2024) 5P 5C
Madurai Bench of Madras High Court is issuing
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