



Crl.MP(MD)No.5251 of 2024

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

Monday, the Ninth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

Crl.MP(MD)No.5251 of 2024

in

Crl.A(MD)No.429 of 2024

BALAKRISHNAN

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE

MADURAI TOWN ALL WOMEN POLICE STATION,

MADURAI CITY.

... 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 against myself in Spl.SC.No.198/2021 dated 12/4/2024 passed by the learned Principal Special Court for Exclusive trial of cases under POCSO Act, Madurai and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in Crl.A(MD).429/2024

Pleased to call for the records in Spl.SC.No.198 of 2021 dated 12.04.2024 passed by the learned Principal Special Court for Exclusive trial of cases under POCSO Act, Madurai and to 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 Mr.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the



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Respondent, the court made the following order:-

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed upon the petitioner by the Special Court for Exclusive Trial of cases under POCSO Act cases, Madurai District, in Special SC No.198 of 2021, dated 12/04/2024 and enlarge him on bail pending disposal of the above said Criminal Appeal.

2.The case of the prosecution brief:-

The victim girl was aged about 5 years at the time of the occurrence. In the complaint, the de-facto complainant stated that on 05/09/2021 at about 07.00 pm, the child was taken to the terraced portion of the building by the accused and committed penetrative sexual assault upon her. On the basis of the above said occurrence, a case in Crime No.13 of 2021 was registered by the respondent police for the offences under sections 7 and 8 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 SC No.198 of 2021 by the Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai.

4.On the side of the prosecution, 11 witnesses were examined and 14 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.



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5. At the conclusion of the trial process, the trial court found the petitioner guilty of the offences and sentenced him to undergo 5 years RI and to pay a fine of Rs.25,000/-, in default to undergo 1 year months SI for the offence under offence under section 9(m) of the POCSO Act, 2012 r/w section 10 of POCSO Act, 2012.

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 stating that absolutely there was no attempt on the part of the petitioner to misbehave with the victim girl; there was no penetrative sexual assault on the part of the petitioner even from the victim statement; there was a delay in registering the FIR; there is no proper explanation by the prosecution.

7. Per contra, the learned Additional Public Prosecutor would submit that sufficient evidence let by the prosecution before the trial court to convict the petitioner under POCSO Act.

8. Perusal of the records shows that the victim girl has spoken clearly about the misbehaviour of the petitioner.

9. Reading of the PW1's evidence shows that the occurrence was intimated to her by the child and they went to the accused house to question the conduct and misbehaviour. But the accused has not properly replied.



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10. Reading of the evidence of PW1 does not indicate any strong motive to make a false complaint. So, this is not a fittest case to exercise the discretion to enlarge the petitioner on bail by suspending the sentence.

11. In the result, this criminal miscellaneous petition is dismissed.

sd/-
09/09/2024

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/10/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER
TO
1 THE PRINCIPAL SPECIAL JUDGE
FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
MADURAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
MADURAI TOWN ALL WOMEN POLICE STATION,
MADURAI CITY.

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



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ORDER
IN
Crl.MP(MD)No.5251 of 2024
in
Crl.A(MD)No.429 of 2024
Date :09/09/2024

SA/JGB/SAR. /09.10.2024/5P/5C

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