



CRL MP(MD) No.9512 of 2023

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

Thursday, the Seventh day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.9512 of 2023

in

CRL A(MD) No.516 of 2022

MURUGESAN

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.59 OF 2014

... 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 sentence imposed on the petitioner by the Learned Special Court for Exclusive trial of POCSO Act cases, Virudhunagar District at Srivilliputtur by its judgment in Spl.S.C.No.22 of 2020 dated 04.12.2021 and enlarge him on bail pending disposal of the Criminal Appeal.

Prayer in CRL A(MD).516/2022 :

To call for the records of the impugned judgment made in Spl.S.C.No.22 of 2020 on the file of the Learned Special Court for exclusive trial of POCSO Act Cases, Virudhunagar District at Srivilliputtur dated 04.12.2021 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.JEGADEESH PANDIAN.M, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

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



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Sessions Judge, Sessions Court for Exclusively Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur, in Spl.S.C.No.22 of 2020 dated 04.12.2021 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 in Crime No.59 of 2014, on the file of the respondent/Inspector of Police, Seithur Police Station, Virudhunagar District, for the offences punishable under Sections 366 of IPC and Section 4 of 'the Protection of Children from Sexual Offences Act, 2012' [hereinafter referred to as 'POCSO Act' for the sake of brevity] and that the same was taken on file in Spl.S.C.No.22 of 2020 before the learned Sessions Judge, Sessions Court for Exclusively Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur. The petitioner was convicted and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,000/- for offence under Section 366 of IPC, to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- for offence under Section 417 of IPC, to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1,000/- with six months simple imprisonment in case of default for offence under Section 4 of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred



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the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

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3. The learned counsel for the petitioner submitted that the victim was found missing and the occurrence said to have been happened on 12.02.2014 at about 2.30 a.m., whereas, P.W.1 father of the victim lodged the written complaint on 14.02.2014 and a case was registered on 17.02.2014. He further submitted that the age of the victim girl is 15 years. Even at the time of filing the FIR, no allegation of kidnapping has been made and only after securing the victim, alteration report was submitted. There is no evidence on record to show that the victim girl stayed with the petitioner in Palani and Coimbatore. The evidence of the victim girl's shows that there was no kidnapping and hence, Section 366A IPC is not attracted. The medical evidence did not support the case of the prosecution. P.W.1 turned hostile. Hence, the learned counsel prays for suspension of sentence of the petitioner.

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. At the time of occurrence, the victim girl was a minor and hence, prays to dismiss the petition. He further submitted that the medical evidence clearly supports the case of the prosecution. The earlier three applications filed by the petitioner were dismissed by this Court.



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5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate 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. Admittedly, the victim eloped with the petitioner and both the petitioner and the victim girl had physical relationship. Based on the complaint lodged by the victim's father, a case was registered and on 17.02.2014, the petitioner and the victim girl were secured. Hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 04.12.2021 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.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Sessions Court for Exclusively Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur, in Spl.S.C.No.22 of 2020 dated 04.12.2021 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, Sessions Court for Exclusively Trial of Cases under



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POCSO Act, Virudhunagar District at Srivilliputhur;

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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 learned Sessions Judge, Sessions Court for Exclusively Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur.

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

sd/-
07/03/2024

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08/03/2024

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

RM

TO

1 THE SESSIONS JUDGE,
SESSIONS COURT FOR EXCLUSIVELY TRIAL OF CASES UNDER POCSO ACT,
VIRUDHUNAGAR DISTRICT.



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2 THE INSPECTOR OF POLICE
SEITHUR POLICE STATION, VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-2958[I] dated 08/03/2024)
ORDER IN
CRL MP(MD) No.9512 of 2023
in
CRL A(MD) No.516 of 2022
Date :07/03/2024

RS//SAR-(08.03.2024) 6P 6C
Madurai Bench of Madras High Court is issuing
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