



CRL MP(MD) No.9150 of 2023

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

Tuesday, the Twentieth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.9150 of 2023

in

CRL A(MD) No.478 of 2023

SARAVANAN

... PETITIONER/ APPELLANT/
ACCUSED 1/ ACCUSED 2

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
CR.NO.15/2022

... RESPONDENT/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 in judgment dt 02.05.2023 made in Spl.S.C.No.195/2022 on the file of the Special Court of POCSO Act cases Virudhunagar District at Srivilliputhur and enlarge the petitioner on bail.

PRAYER IN CRL.A(MD).478/2023:

Pleased to call for records and set aside the judgment dated 02.05.2023 passed in Spl.S.C.No.195 of 2022 on the file of the Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur.

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

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M/S.BALASIVASUBRAMANIAN K, 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 POCSO Act Cases, Virudhunagar District at Srivilliputhur, in Spl.S.C.No.195 of 2022 dated 02.05.2023 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.15 of 2022, on the file of the respondent/Inspector of Police, All Women Police Station, Aruppukottai, Virudhunagar District, for the offences punishable under Sections 324, 376(AB), 506(i) of IPC and Section 5(1), 5(m), 5(n), 5(i), 5(h), 6, 16 and 17 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.195 of 2022 before the learned Sessions Judge, Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur. The petitioner was convicted and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with three months simple imprisonment in case of default for the offence under Section 6 r/w. 17 of POCSO Act and to undergo 2 years rigorous



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imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) with three months simple imprisonment in case of default for the offence under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015. 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 for the petitioner submits that the petitioner is the maternal uncle of the victim. The mother of the victim eloped with some one leaving the child with him and he brought up the girl. The petitioner had no knowledge about the alleged offence committed by his son/juvenile accused. He further submitted that the petitioner has been falsely implicated in this case. The victim was with him from one month baby and he is taking care of the child and brought up as his own child. The petitioner has no knowledge about the alleged sexual assault on the victim as she never complained about the same. 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 was five years old and she had narrated the crime committed by the accused before P.W.1 and hence, prays to dismiss the petition.



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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 that there are certain infirmities and inconsistencies in this case and also certain admission in respect of maintaining of the petitioner upon the victim and the main accused is his son and the case is still pending against him before the Juvenile Justice Board, Virudhunagar and hence, this Court is of the prima facie view 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 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, Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur, in Spl.S.C.No.195 of 2022, dated 02.05.2023, 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 sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for



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POCSO Act Cases, Virudhunagar District at Srivilliputhur;

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 before the concerned Court daily at 10.30 a.m., till the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Special Court for POCSO Act Cases, Virudhunagar District at Srivilliputhur.

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

sd/-
20/02/2024

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20/02/2024
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,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.

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

ORDER IN
CRL MP(MD) No.9150 of 2023
Date :20/02/2024

SA/SAR. /20.02.2024/6P/5C

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