



Crl.MP(MD)No.7482 of 2024 in Crl.A(MD)No.588 of 2024

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Virudhunagar @ Srivilliputhur, in Special Sessions Case No.99 of 2023, dated 28/05/2024 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The case of the prosecution brief:-

The victim girl was born on 01/07/2011. On 20/05/2023 at about 08.30 am, the victim girl was cleaning the house in the front. At that time, the accused who is aged about 76 years behaved with the victim girl by pressing the chest region. That was condemned and intimated to the de-facto complainant, who is the mother. Upon the occurrence, a case in Crime No.19 of 2023 was registered by the respondent police for the offences under sections 9(m) and 10 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.9 of 2023 by the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District @ Srivilliputhur.



4.On the side of the prosecution, 10 witnesses were examined and 9 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 and sentenced him to undergo 5 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one year SI for the offence under section 9(m) r/w 10 of the Protection of Children from Sexual Offences 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.

7.Heard both sides.

8.The learned counsel appearing for the petitioner would submit that the petitioner was aged about 76 and belongs to the very same street and nothing happened as projected by the prosecution.

9.Considering the age of the petitioner, he was ordered to be produced before this court through VC. He was also produced before this court. On seeing the physical condition of the petitioner, it came to know that his hands are shivering and seems to be physically weak.



10.On that account, the learned counsel appearing for the petitioner wants suspension of sentence.

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11.Per contra, the learned Government Advocate (Criminal side) would submit that the victim girl is aged about 11 years and for known reason, the aged person misbehaved with her by pressing her chest region and there is no motive between them.

12.No doubt that a serious misconduct alleged against the petitioner herein. But, as seen from the physical condition of the petitioner, I am of the considered view that there can be taken as a reason for suspension of sentence.

13.Considering the above said facts and circumstances of the case 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



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Thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Virudhunagar @ Srivilliputhur 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.

30/08/2024

Index : Yes/No
Internet: Yes/No

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To,

- 1.The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, Virudhunagar @ Srivilliputtur.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Inspector of Police,
All Women Police Station,
Rajapaayam,
Virudhunagar District.
- 4.The Superintendent,
Central Prison,
Madurai.



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