



Cr1.MP(MD)No.8932 of 2024 in Cr1.A(MD)No.710 of 2024

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner/A1 in Special SC No.218 of 2019, dated 02/07/2024 passed by the Sessions Judge, Special Court for POCSO Act Cases, Thoothukudi and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that on 21/09/2016 the victim girl was alone in the house. She was in love with A1. At about 04.00 pm, on that date, A1 compelled her for sexual intercourse. Against her wish and will, she was subjected to sexual intercourse under the false promise of marriage and that continued for several time. When they wanted to perform the marriage, the parents of the accused namely A2 and A3 refused. On the basis of the complaint given by the de-facto complainant, a case in Crime No.335 of 2016 was registered by the respondent police for the offences under section 294(b), 313, 417 and 376 IPC @ 294(b), 5(1) r/w 6 of POCSO Act and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

3.After completion of the investigation, the respondent police filed a final report and the same has



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been taken cognizance in Special SC No.218 of 2019 by the Sessions Judge, Special Court for POCSO Act cases.

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4.On the side of the prosecution, 16 witnesses were examined and 12 documents were marked. On the side of the accused, no witness was examined, but one document was marked.

5.At the conclusion of the trial process, the trial court found the petitioner/A1 guilty of the offence and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo 1 month simple imprisonment for the offence under section 6 of POCSO Act.

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 victim girl was in love with A1, who is the petitioner herein; because of the objection made by the co-accused, it could not be carried away. The age of



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the victim girl was 17+. The date of the birth is 14/01/1998 and the date of occurrence is stated to be 27/12/2015.

9.Per contra, the learned Government Advocate (Criminal side) would submit that at the time of the occurrence, the victim girl was aged about 15 years and the trial court has rightly convicted the petitioner. So, no indulgence need be shown.

10.Whether the age of the victim girl was below 18 at the time of the occurrence and was known to the petitioner is a matter for consideration at the time of hearing the main appeal.

11.Considering the above said facts 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 Thousand only) with two sureties each



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for a like sum to the satisfaction of the Sessions Judge,
Special Court for POCSO Act cases, Thoothukudi 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.

20/09/2024

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Sessions Judge,
Special Court for POCSO Act cases,
Thoothukudi.
- 2.The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli Dt.



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20.09.2024