



CRL MP(MD) No.12292 of 2023

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

Friday, the Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.12292 of 2023

in

CRL A(MD) No.763 of 2023

GUNA

... PETITIONER/ APPELLANT

Vs

**THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
OTTANCHATRAM,
DINDIGUL DISTRICT.
CRIME NO.10 OF 2021.**

... RESPONDENT/RESPONDENT

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 vide judgment in Special S.C.No.83 of 2023 dated 22.06.2023 on the file of the learned Special Court for POCSO Act Cases, Dindigul District and enlarge the petitioner on bail pending disposal of the above criminal appeal.

Prayer in CRL.A(MD).763/2023:

Pleased to call for the records relating to the judgment made in Special S.C.No.83 of 2023 dated 22.06.2023 on the file of the Learned Special Court for POCSO Act Cases, Dindigul District 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

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M/S.ANTONY ARUL RAJ.T, 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, Dindigul District, in Spl.S.C.No.83 of 2023 dated 22.06.2023 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.10 of 2021, on the file of the respondent/Inspector of Police, All Women Police Station, Ottanchatram, Dindigul District, for the offences punishable under Section 5(n) r/w.6 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.83 of 2023 before the learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul District. The petitioner was convicted and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) with one year simple imprisonment in case of default for the offence under Section 6 of POCSO Act. 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.



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3. The learned counsel appearing for the petitioner would submit that no such occurrence took place between the petitioner and the victim girl. There is no evidence to prove the charge levelled against the petitioner. The prosecution witness does not support the case of the complainant. The evidence of the Doctor, as well as the medical report, is sufficient to disprove the case of the prosecution. He further submitted that the petitioner and the victim girl are relatives and they loved each other. He further submitted that as per the doctor report, there was no injury and the age of the victim girl was also not proved by the prosecution. He further submitted that there is no evidence to show that the victim was subjected to sexual assault. He also submitted that the petitioner is in judicial custody from 22.06.2023. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Additional Public Prosecutor 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.

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



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petitioner. Admittedly, the victim girl and the petitioner are relatives and they loved each other. Based on the complaint lodged by the victim's mother, a case was registered. 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 22.06.2023 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, Dindigul District, in Spl.S.C.No.83 of 2023 dated 22.06.2023 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 blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul District;
- 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



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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 Sessions Judge, Special Court for POCSO Act Cases, Dindigul District.

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

sd/-
08/03/2024

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12/03/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM
TO
1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES, DINDIGUL DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
OTTANCHATRAM,
DINDIGUL DISTRICT.

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

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-2926[I] dated 08/03/2024)
<https://www.mhc.tn.gov.in/judis>



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ORDER
IN
CRL MP(MD) No.12292 of 2023
in
CRL A(MD) No.763 of 2023
Date :08/03/2024

SA/SAR. /12.03.2024/6P/6C

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