



CRL MP(MD) No.10022 of 2024

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

Friday, the Eighteenth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.10022 of 2024

IN

CRL A(MD) No.740 of 2023

SEKAR

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE,
SHENKOTTAI POLICE STATION,
TENKASI DISTRICT.

CRIME NO. 166/2019

... 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 enlarge him on bail by suspending the sentence imposed on the petitioner by the Sessions Judge, Special court for POCSO Act cases, Tirunelveli in Spl S.C No. 307/2019 dt. 23.06.2023 pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.740 of 2023:

Pleased to call for the records and set aside the Judgment made in Spl.S.C.No.307of 2019 on the file of the Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli dated 23.06.2023.

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

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



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Mr.D.VENKATESH, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli, in Spl.S.C.No.307/2019 dated 23.06.2023.

2. Learned counsel for the petitioner submitted that the petitioner, who is the accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 363 of IPC sentenced to undergo rigorous imprisonment for 5 years and to pay a sum of Rs.1000/-, in default to undergo rigorous imprisonment for 6 months and for the offences under Sections 323, 294(b), 506(i) of IPC, sentenced to undergo rigorous imprisonment for 6 months each and to undergo rigorous imprisonment for 14 years for the for the offences punishable under Section 6 of the POCSO Act and to pay a sum of Rs.5000/- as fine, in default, to undergo one year rigorous imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution in brief is that on 30.03.2019, the victim was returning to his house along the Viswanathapuram, Kasamadan Kovil street, near railway line. The accused prevented him from going further. Tied his hands with ropes and committed oral sexual assault on the victim boy. A case was registered and final report was filed before the trial court after completing the investigation



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process.⁵

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4. Before the trial Court, on the side of the prosecution 17 witnesses have been examined, 18 documents were marked. Apart from that one material object was marked. On the side of the accused no witness was examined and no document was marked.

5. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner / accused. Pending appeal, the petitioner has filed a petition seeking suspension of sentence.

6. Learned counsel for the petitioner would submit that P.W.1 was the eye witness to the occurrence. Election motive was suggested to P.W.1 for false implication. The case of the prosecution suffers from contradictions. In view of the fact that P.W.3 and P.W.4 differs in their evidence with regard to the time of occurrence, P.W.3 states that it is 12 Noon in the afternoon and it is stated by P.W.4 that the occurrence has taken place at 3 p.m. It is further submitted that even as per the case of the prosecution the petitioner has only attempted to commit the said offence. Considering the period of incarceration, the petitioner / accused this petition has been filed.

7. Per contra, learned Additional Public Prosecutor would submit that the case of the prosecution is established and corroborated by way of medical evidence. An



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innocent boy was subjected to repeated sexual offence as stated in the complaint.

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Therefore, no interference is called for.

8. Reading of the judgment of the trial Court as well as the evidence of record shows that in a cruel manner, the petitioner was alleged to have subjected the victim boy to sexual abuse. Considering the nature of the offence said to have been committed by the petitioner, I am of the considered view that he is not entitled to be enlarged on bail, by exercising the discretionary power of this Court.

9. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
18/10/2024

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/11/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN
TO
1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

3 THE INSPECTOR OF POLICE,
SHENKOTTAI POLICE STATION,
TENKASI DISTRICT.



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

ORDER
IN
CRL MP(MD) No.10022 of 2024
IN
CRL A(MD) No.740 of 2023
Date :18/10/2024

SA/MMS/SAR. /30.10.2024/5P/5C

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