



Crl.M.P.(MD) No.13661 of 2023

WEB COPY

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

Wednesday, the Twenty Fourth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and
The Hon`ble Mr.Justice K.RAJASEKAR

Crl.M.P.(MD) No.13661 of 2023
in
Crl.A.(MD) No.881 of 2023

ANBU

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
C-2 SUBRAMANIYAPURAM POLICE STATION,
(LAW AND ORDER), MADURAI CITY.
CRIME NO. 663 OF 2015

... 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 operation and execution of sentence imposed on the petitioner / Accused by the Principal Special court for Exclusive Trial of cases under POCSO Act, Madurai in Special S.C No. 5 of 2016 dated 31.05.2022 and to enlarge the above Criminal Appeal.

Prayer in Crl.A.(MD) No.881 of 2023:

Pleased to call for the records pertaining to the impugned judgment of conviction and sentence imposed against the appellant in Spl.SC.No.5/2016 dated 31.05.2022 passed by the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai and to set aside the same, by allowing this Criminal Appeal and may be pleased to acquit the Appellant/ Accused from the charges framed against him.

<https://www.hmc.mh.gov.in/judis>



Crl.M.P.(MD) No.13661 of 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 M/S.RAMALINGAM.K.C., Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The present petition has been filed by the appellant/accused to suspend the sentence imposed on him by the learned Sessions Judge, Principal Special Court for Exclusive trial of cases under POCSO Act, Madurai in S.C.No. 5 of 2016.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
366(A)	10 years rigorous imprisonment	Rs.1000/- i/d to undergo one year simple imprisonment
5(l)r/w.6 of POCSO Act	Life imprisonment	Rs.5000/- i/d to undergo one year simple imprisonment

3. The case of the prosecution is that the petitioner herein had kidnapped the minor victim girl and had taken her to Tirupur married her and had committed penetrative sexual assault on several occasions without her consent.



Crl.M.P.(MD) No.13661 of 2023

WEB COPY

4. Learned counsel appearing for the petitioner would submit that the petitioner was aged about 21 years at the time of occurrence and he hails from economically weaker background and he is also an uneducated person. The petitioner and the victim are neighbours living in the same locality and known to each other and the relationship between them was consensual in nature. Since the relationship was reprimanded by the family members, the petitioner and the victim, without understanding the consequences, had eloped and stayed at Tirupur and only after filing of Habeus Corpus Petition they were traced by the police. The petitioner was in bail during trial and he has not misused the personal liberty granted to him and he has no bad antecedents. He would also submit that the petitioner is in custody from the date of judgment and hence he seeks for indulgence of this court.

5. The respondent has filed detailed counter. Learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that the petitioner had kidnapped the minor victim girl and had taken her to Tirupur and had stayed there for two months and during such time had committed repetitive penetrative sexual assault, thereby he would vehemently oppose for grant of bail to the petitioner.

6. Heard the learned counsel on either side and perused the materials available on record.



Crl.M.P.(MD) No.13661 of 2023

WEB COPY

7. Taking into consideration the fact that the petitioner is aged about only 21 years at the time of occurrence and the manner in which the offence said to have been committed and also having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration and also taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioner pending the Appeal.

8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner herein alone is suspended pending the Appeal, subject to the following conditions:

- i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Sessions Judge, Principal Special Court for Exclusive trial of cases under POCSO Act, Madurai
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their



Crl.M.P.(MD) No.13661 of 2023

identity.

WEB COPY

- iii. The petitioner shall report before the trial Court on the first working day of every English calendar month at 10.30 am., until further orders.
- iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
24/07/2024

/ TRUE COPY /

26/07/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO
1 THE SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT,
MADURAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
C-2 SUBRAMANIYAPURAM POLICE STATION,
(LAW AND ORDER), MADURAI CITY.

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

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



Crl.M.P.(MD) No.13661 of 2023

+1 CC to M/s.K.C.RAMALINGAM, Advocate (SR-8537[I] dated 25/07/2024)

ORDER
IN
Crl.M.P.(MD) No.13661 of 2023
in
Crl.A.(MD) No.881 of 2023
Date :24/07/2024

SA/SAR. /26.07.2024/6P/6C

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