



CRL MP(MD) No.13331 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.13331 of 2023

in

CRL A(MD) No.858 of 2023

DHANUSH KUMAR

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
DINDIGUL.
(CRIME NO.24/2022).

... RESPONDENT/COMPLAINANT

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 against the petitioner in Spl.SC.No.183/2023 dt.18/8/2023 passed by the learned Special Court POCSO Act Cases, Dindigul and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL.A(MD).858/2023:

Pleaded to call for the records in Spl.S.C.No.183 of 2023 dated 18.08.2023 passed by the learned Special Court for POCSO Act Cases, Dindigul and to 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 M/S.KARUPPASAMY PANDIAN G, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate on behalf of the Respondent, the court



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made the following order:-

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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.183 of 2023 dated 18.08.2023 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.24 of 2022, on the file of the respondent/Inspector of Police, All Women Police Station, Dindigul, for the offences punishable under Sections 450 & 506(i) of IPC and Section 4 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.183 of 2023 before the learned Sessions Judge, Special Court for POCSO Act Cases, Dindigul. The petitioner was convicted and sentenced to undergo 10 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 4 of POCSO Act, to undergo one year rigorous imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only) with one month simple imprisonment in case of default for the offence under Section 450 of IPC and to undergo six months rigorous imprisonment for the offence under Section 506(i) of IPC. Challenging the



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above said conviction and sentence, the petitioner has preferred the Criminal Appeal along with the present Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are neighbours and they loved each other. He further submitted that the trial Court failed to consider the evidence of victim girl especially, the chief examination which does not show that the accused committed penetrative sexual assault. There is nothing to show the age of the victim girl as if she was under the age of 18 years. Therefore, the prosecution failed to establish the age of the victim girl. 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 18.08.2023. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Government Advocate (Crl. side) appearing on behalf of the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature. He further submitted that when the victim girl alone at her home, the accused came there in a drunken mood and entered into the house of the victim and forcibly committed the offence and at the time of occurrence, the victim girl was a minor and hence, prays to dismiss



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the petition.

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5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate 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 petitioner. Admittedly, the victim girl and the petitioner are neighbours 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 18.08.2023 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, in Spl.S.C.No.183 of 2023 dated 18.08.2023 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



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Court for POCSO Act Cases, Dindigul;

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 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.

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.

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



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

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

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-3068[I] dated
12/03/2024)

ORDER IN
CRL MP(MD) No.13331 of 2023
Date :08/03/2024

SA/SAR. /12.03.2024/6P/C
Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.