



CRL MP(MD) No.13603 of 2023

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

Monday, the Fifth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.13603 of 2023

IN

CRL A(MD)No. 877 of 2023

SURYA

**(NOW CONFINED AT
CENTRAL PRISON TRICHY)**

... APPELLANT/ APPELLANT

Vs

**THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THIRUVAIYARU,
THANJAVUR DISTRICT.
(CRIME NO.02 OF 2022)**

... 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 the Petitioner on bail by Suspending the Sentence imposed upon the petitioner in Spl.S.C.No.55 of 2022 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, Thanjavur District and by judgment dated 30.08.2023 pending disposal of the main Criminal Appeal.

PRAYER IN CRL A(MD)No. 877 of 2023:

Pleased to call for the records in Special Sessions Case No. 55 of 2022 on the file of the Principal Special Court for Exclusive Trial of cases Under POCSO Act, Thanjavur, Thanjavur District and set aside the judgment dated 30.08.2023 and acquit the appellant of the charges leveled against him.

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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.SURESH KANNAN.C, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Criminal Side) 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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.55 of 2022 dated 30.08.2023 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 in Crime No.02 of 2022, on the file of the respondent/Inspector of Police, A.W.P.S. Thiruvaiyaru, Thanjavur District, for the offences punishable under Sections 5(i) r/w. 6, 5(j)(ii) 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.55 of 2022 before the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur. The petitioner was convicted and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.20,000/- (Rupees Twenty



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Thousand only) with one year rigorous imprisonment in case of default.

Challenging the above said conviction and sentence, the petitioner has preferred the present Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner while referring the deposition of victim (P.W.2) submits that both the victim and the petitioner were in consensual relationship and P.W.1/mother of the victim deposed that she is ready to arrange a marriage between the victim and the petitioner, after the victim attaining majority. Thereafter, P.W.2 gave birth to a girl child on 25.07.2022. He further submitted that the age of P.W.2 has not been conclusively proved by the prosecution. The victim girl was living happily with the petitioner prior to his conviction and she still wants to reside with the petitioner along with her child. 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. 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

Government Advocate (Crl. side) appearing for the State and perused the materials

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available on record.

6. This Court finds force in the submission of the learned counsel for the petitioner. Admittedly, the petitioner had made physical relationship with the victim girl on the promise of marriage and since she is a minor, he did not marry her, P.W.1/mother of the victim lodged the complaint. Though victim's mother has given a complaint, she is living with the petitioner. Thereafter, she gave birth to a girl child on 25.07.2022. Hence, this Court prima facie feels 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 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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, in Spl.S.C.No.55 of 2022 dated 30.08.2023 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, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur;



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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 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 ie., learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai.

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

sd/-
05/02/2024

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07 /02/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

TO

1 THE PRINCIPAL SPECIAL JUDGE
FOR EXCLUSIVE TRIAL OF CASES UNDER POSCO ACT
THANJAVUR, THANJAVUR DISTRICT.

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- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THIRUVAIYARU,
THANJAVUR DISTRICT.
- 3 THE OFFICER INCHARGE
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.C.SURESH KANNAN, Advocate (SR-1422[I] dated 05/02/2024)

ORDER
IN
CRL MP(MD) No.13603 of 2023
IN
CRL A(MD)No. 877 of 2023
Date :05/02/2024

PKP/07.02.2024/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified
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