



CRL MP(MD) No.15405 of 2023

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

Wednesday, the Third day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.15405 of 2023

in

CRL A(MD)NO. 976 of 2023

SEENIYAPPA

... APPELLANT/ ACCUSED

Vs

**THE INSPECTOR OF POLICE
ALLANGUDI ALL WOMEN POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME NO. 1/2022**

... 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 upon the petitioner in Special S.C No. 13/2022 dt. 13.10.2023 by the learned Mahila court, Pudukkottai and enlarge the petitioner on bail pending disposal of the appeal.

PRAYER IN CRL A(MD)No. 976 of 2023:

To call for the records and set aside the order passed by the learned Mahila Court, Pudukkottai has passed an order in Special S.C.No. 13/2022 dated 13/10/2023, acquit the appellant from the charges levelled 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.MANI S.K., Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate on behalf of the Respondent, the court made the following order:-

Reserved on : 18.12.2023

Pronounced on : 03.01.2024

The petitioner has filed this petition to suspend the sentence imposed against him in judgment dated 13.10.2023 made in Spl.S.C.No.13 of 2022 on the file of the Mahila Court, Pudukottai and to enlarge him on bail till the disposal of Criminal Appeal.

2.The brief facts of the prosecution case:

The victim girl was studying 6th Standard in Thuvar, Government High School at the time of occurrence. The petitioner/accused was working as Maths Teacher in that school. On 22.11.2021 at about 11.00 a.m during break time, the victim was alone and was taking water in the class room. At that time, the petitioner/accused came behind her and put his hand on her left shoulder and touched her left chest, immediately the victim girl asked to take off the hand, thereby the petitioner committed sexual assault on the victim girl. Due to this the victim girl did not go to school for two weeks.



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3. On getting information about the sexual assault over victim, the District Children Welfare Officer and his associates enquired the victim and lodged complaint before the All Women Police Station, Alangudi against the petitioner/accused and FIR was registered in Crime No.1 of 2022 for the offence under Section 9(f) r/w 10 of POCSO Act against the petitioner/accused. P.W.8 - Inspector of Police did investigation and laid charge sheet. The petitioner was charged for the offences under sections stated above.

4. To prove the charge, the prosecution examined 8 witnesses as P.W.1 to P.W.8 and marked 12 exhibits as Ex.P1 to Ex.P12. No material object was marked. On the defence side D.W.1 was examined and Ex.D.1 and Ex.D.2 were marked. After considering both side evidences and both side arguments, the Trial Court has found the petitioner/accused guilty for the offence under Section 9(f) r/w 10 of POCSO Act and convicted and sentenced him to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of 6 months by passing impugned judgment dated 13.10.2023.

5. Aggrieved by the conviction judgment, the petitioner/accused has preferred the present Criminal Appeal before this Court. Along with appeal, the petitioner/accused has filed this petition seeking for suspension of sentence and for bail pending disposal of the appeal.



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6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent.

7. The learned counsel for the petitioner has submitted that the petitioner has not committed the alleged offence, there was motive between the Head Master and the petitioner regarding utilization of school development fund allotted by the Government. The alleged occurrence took place on 22.11.2021 and the complaint was lodged belatedly on 08.01.2022. The petitioner put 17 years of service and he produced 100% result. The victim girl has not attended the school more than three days including the alleged occurrence day. There is no feasibility to watch the occurrence through window. The headmaster of the school foisted the cases. Since the petitioner is reaching retirement and in order to avoid he executed a letter of apology in case the school management felt the occurrence took place. The Trial Court has not considered all these aspects. The petitioner is aged 58 years and is in prison for more than 340 days including the remand period. There is no medical evidence. The petitioner is the only breadwinner of his family. The petitioner has a fair chance of succeed in the appeal. Therefore, the learned counsel for the petitioner prays for suspension of sentence and bail for the petitioner.

8. Per contra, the learned Government Advocate (Criminal Side) would submit

<https://www.mca.gov.in> that the victim girl was studying 6th Standard in the occurrence school. The



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petitioner/accused being a Maths teacher committed aggravated sexual assault on the 6th std victim girl, when she was lonely during break time. The victim girl as P.W.2 clearly deposed about the offence committed by the petitioner/accused. Moreover, the petitioner/accused executed Ex.P.12 letter mentioning apologize. There is no need of corroboration by other witnesses when the victim's evidence is sufficient. The Trial Judge has properly appreciated the evidence adduced by the prosecution and has correctly passed the judgment convicting the accused as stated therein. The gravity of offence committed by the petitioner has to be looked in this case. Therefore, he strongly opposed to grant suspension of sentence and thereby the petitioner is not entitled to bail.

9. On hearing both side rival arguments and on perusal of records, it is clear that the petitioner was convicted and sentenced to imprisonment as stated supra. During the course of argument, the learned counsel for the petitioner has drawn the attention of the Court to certain grounds of defence that there was motive between the petitioner and Head Master of that school and also submitted that the victim girl did not attend the school for more than three days including the occurrence day. He also submits that the alleged occurrence date is 22.11.2021, but the complaint was lodged on 08.01.2022 and there creates doubt on the prosecution case. However, these are to be decided while deciding the appeal on merits. However, the learned



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counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain admission of prosecution witnesses. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is of the year 2023 and the same is not likely to be taken up for final hearing in the near future and that the petitioner/appellant, is in prison for the past 11 months including the remand period. In the above circumstances, this Court is inclined to consider the relief sought in this petition and holds that the petitioner herein is entitled to the relief of grant of suspension of sentence.

10. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i) The petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Pudukkottai;

(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; and

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(iii) The petitioner shall appear before the trial Court on first working day of every week at 10.30 a.m., until further orders.

sd/-
03/01/2024

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03/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VS
TO

- 1 THE SESSIONS JUDGE
MAHILA COURT, PUDUKKOTTAI.
 - 2 THE INSPECTOR OF POLICE
ALLANGUDI ALL WOMEN POLICE STATION,
PUDUKKOTTAI DISTRICT.
 - 3 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to MR.S.K.MANI, Advocate SR.No.153(I) dt: 04/01/2024

ORDER
IN
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in
CRL A(MD)NO. 976 of 2023
Date :03/01/2024

PKP/SAR- /03.01.2024/ 7P/6C
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