



CRL MP(MD) No.31 of 2024

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

Tuesday, the Twentieth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.31 of 2024

in

CRL A(MD)No. 3 of 2024

SAMY

... APPELLANT/SOLE ACCUSED

Vs

**THE SUB INSPECTOR OF POLICE
SENDRAMARAM POLICE STATION,
TIRUNELVELI DISTRICT.
(IN CRIME NO.207 OF 2018)**

... 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 in Judgment dt.25.11.22 made in Special Case No.146 of 2019 on the file of the Sessions Judge, Special Court for POCSO Act, Tirunelveli District and enlarge him on bail pending disposal of the above Criminal Appeal.

PRAYER IN CRL A(MD)No. 3 of 2024:

Pleased to call for the records and set aside the Judgment dated 25.11.2022 made in Special case No.146 of 2019 on the file of the Sessions Judge, Special Court for POCSO Act cases under the POCSO Act 2012, Tirunelveli, Tirunelveli District.

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. SASIDHARAN TAMILKANIS.T, Advocate for the petitioner and of

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



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MR.A.THIRUVADI KUMAR, Additional Public Prosecutor 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, Special Court for POCSO Act Cases, Tirunelveli, Tirunelveli District in Spl.S.C.No.146 of 2019 dated 19.09.2022 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.207 of 2018 on the file of the respondent/Inspector of Police, Sendhamaram Police Station, Tirunelveli District, for the offences punishable under Section 10 r/w. 9(m) of POCSO Act and the same was taken on file in Spl.S.C.No.146 of 2019 before the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli. The petitioner was convicted and sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.1,000/- with six months rigorous imprisonment in case of default for the offence under Section 10 (2 counts) of POCSO Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.



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3. The learned counsel appearing for the petitioner would submit that the occurrence took place on 25.05.2018, P.W.1 gave a complaint only on 01.07.2018 and there is a contradiction between the complaint and the evidence of the prosecution and the prosecution has miserably failed to prove the case beyond reasonable doubt. He further submitted that the petitioner is a senior citizen and his health condition also not good and due to previous motive, a false complaint was lodged against the petitioner. The petitioner is in jail for more than 1-½ years. Hence, the learned counsel prays for suspension of sentence of the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent vehemently opposed this petition informing that the allegations levelled against the petitioner/accused are serious in nature. He would further submit that the evidence of victim children namely, P.W.2 and P.W.3 have clearly stated about the offence committed by the petitioner and without any strong reason, no parents will go to the extent of making allegation of this nature by using their own child and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned

Additional Public Prosecutor 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. Hence, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal and the petitioner has been incarcerated from 25.11.2022 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, Tirunelveli, in Spl.S.C.No.146 of 2019 dated 25.11.2022 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 Court for POCSO Act Cases, Tirunelveli;

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;

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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, Tirunelveli.

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

sd/-
20/02/2024

/ TRUE COPY /

22/02/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM
TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES UNDER THE
POCSO ACT 2012, TIRUNELVELI,
TIRUNELVELI DISTRICT.
- 2 THE SUB INSPECTOR OF POLICE
SENDHAMARAM POLICE STATION,
TIRUNELVELI DISTRICT.



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3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-2087[I] dated
20/02/2024)

ORDER
IN
CRL MP(MD) No.31 of 2024
in
CRL A(MD)No. 3 of 2024
Date :20/02/2024

PKP/22.02.2024/ 6P/6C

Madurai Bench of Madras High Court is issuing certified
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