



CRL MP(MD) No.16749 of 2023

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

Wednesday, the Thirteenth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.16749 of 2023

in

CRL A(MD) No.1053 of 2023

SUNDARA PANDIYAN

... APPELLANT/ACCUSED 2

Vs

THE INSPECTOR OF POLICE
THIRUCHITRAMPALAM POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.74/2017.

... 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 of imprisonment imposed by the Learned District Judge Special Court for exclusive trial of POCSO act cases Thanjavur District in Special Sessions Case No.23/2019 by the judgment dt.11.10.2023 and enlarge the petitioner / appellant on bail, pending disposal of the above said Criminal Appeal.

PRAYER IN CRL.A(MD).1053/2023:

Pleased to call for records and set aside the Judgment and Conviction dated 11.10.2023 by the Learned District Judge Special Court for exclusive trial of POCSO act cases Thanjavur district in Special Sessions Case No.23/2019 and acquit the appellant.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon
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perusing the petition filed in support thereof and upon hearing the arguments of Mr.P.KALAIYARASI BHARATHI, Advocate for the petitioner and of Mr.M.MUTHUMANIKKAM, Government Advocate(crl.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, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur District, in Spl.S.C.No.23 of 2019 dated 11.10.2023 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.74 of 2017, on the file of the respondent/Inspector of Police, Thiruchitrampalam Police Station, Thanjavur District, for the offences punishable under Sections 366A of IPC and that the same was taken on file in Spl.S.C.No.23 of 2019 before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur District. The petitioner was convicted and sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) for offence under Section 366 of IPC. 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 for the petitioner submitted that the trial Court failed to consider the victim girl's 164 statement before the Judicial Magistrate, in which she does not state anything about her date of missing and from where she was rescued. He further submitted that the victim had stated before the investigation officer that she left her house voluntarily. He also submitted that the trial Court failed to consider the evidence of investigating officer, who has deposed that the petitioner/A2 is no way connected with A1 and A3. The evidence of the victim girl's shows that there was no kidnapping and hence, Section 366A IPC is not attracted. The petitioner is in judicial custody from 11.10.2023. 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 the petitioner is A2 in this case. From the whole aspects, the trial Court properly consider that A1, with the help of the petitioner/A2, had abducted and committed the offence of aggravated penetrative sexual assault on the victim . 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 appearing for the State and perused the materials available on



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6. This Court finds force in the submission of the learned counsel for the petitioner and 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 11.10.2023 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 Exclusive Trial of Cases under POCSO Act, Thanjavur District, in Spl.S.C.No.23 of 2019 dated 11.10.2023 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 Court for Exclusive Trial of Cases under POCSO Act, Thanjavur District;

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 on the first working day of every English calendar month at 10.30 a.m., until further orders.

iii) In case, if the petitioner is unable to appear before the Court on the 1st working day of a month, he shall appear on the next working day.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur District.

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

sd/-
13/03/2024

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15/03/2024
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 EXCLUSIVE TRIAL OF POCSO ACT CASES,
THANJAVUR DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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



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3 THE INSPECTOR OF POLICE
THIRUCHITRAMPALAM POLICE STATION,
THANJAVUR DISTRICT.

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

+1. C.C. to Mr.P.KALAIYARASI BHARATHI Advocate SR.No.3100 (I)
DT.13/03/2024

ORDER IN
CRL MP(MD) No.16749 of 2023
in CRL A(MD) No.1053 of 2023
Date :13/03/2024

SA/SAR. /15.03.2024/6P/6C
Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.