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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

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THE HONOURABLE **MR.JUSTICE M. NIRMAL KUMAR**

Crl.M.P.No.3150 of 2025

in

Crl.A.No.201 of 2025

Happy @ Ponsamuel Happy

...Petitioner

Vs

State through,
The Inspector of Police,
W-6, All Women Police Station,
Ayanavaram Range,
Chennai-600 003.
Crime No.12 of 2019

...Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence of imprisonment imposed by the learned Additional Special Court for Exclusive Trial of Cases under POCSO Act, [Mahalir Neethimandram], Allikulam, Chennai-600 003 in Spl.S.C.No.19 of 2023 dated 27.01.2025 and enlarge the petitioner on bail pending disposal of C.A.No.... 2025.

For Petitioner

: Mr.R.Ganesh Kumar



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For Respondent

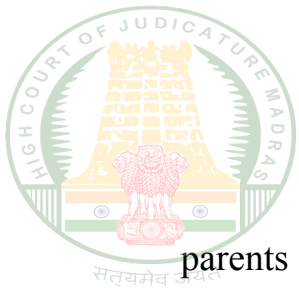
: Mr.G.V.Kasthuri
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the judgment dated 27.01.2025 passed in Spl.S.C.No.19 of 2023 by the learned Additional Special Court for Exclusive Trial of Cases under POCSO Act, [Mahalir Neethimandram], Allikulam, Chennai-600 003, pending disposal of the above Criminal Appeal.

2. The petitioner/accused, who convicted by the trial Court in Spl.S.C.No.19 of 2023 by judgment dated 27.01.2025 and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.25,000/-, in default, to undergo two months simple imprisonment. Aggrieved by the said conviction, the petitioner has filed CrI.A.No.201 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3. The contention of the petitioner is that the petitioner and the victim girl, PW.2 were in love affair. The petitioner had completed his decree and the victim was a college student. They were in love relationship for quite some time, but later developed misunderstandings. Since the petitioner's



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parents did not approve of their relationship, the victim's mother taking advantage the victim's minority, lodged a false complaint against the petitioner alleging sexual assault. During their love affair, the petitioner and the victim hugged and kissed each other, which was projected as sexual assault. Both attended church, where it is common in their religion to express their love and affection through hugging and kissing. However, this was misconstrued as the petitioner with sexual intent making improper touches.

4. Furthermore, the statements made by PW.1, the mother of the victim and PW.2, the victim, both under Sections 161 and 164 Cr.P.C., statements were exaggerated with contradiction, the Investigating Officers, PW.7 and PW.8 admit the contradictions. The trial Court, despite noticing these contradictions, convicted the petitioner.

5. On the other hand, the learned Government Advocate (Crl.Side) appearing for the State submitted that in this case, PW.2, the victim and PW.1, the victim's mother who lodged the complaint and deposed how the petitioner had committed sexual assault. The victim, being the minor, was unable to express herself to her parents in tidy, but she disclosed the happenings, hence minor improvements, which were duly observed by the



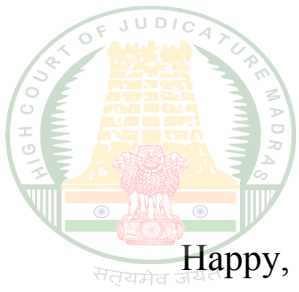
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trial Court. In this case, merely on technicalities and for contradictions, the evidence of the victim cannot be discarded. The trial Court rightly found that the victim as well as her mother were consistent in their statements. Further, the Section 164 Cr.P.C., statement victim mentions the sexual assault.

6. The learned Government Advocate (Crl.Side) submitted that on the date of Judgment, the trial Court suspended the sentence for a period of 30 days to enable the petitioner herein to approach the appellate Court and seek remedy.

7. Finding prima-facie case is made out and further taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, further, trial Court already suspended the sentence, this Court is inclined to suspend the sentence imposed on the petitioner.

8. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner/appellant namely -Happy @ Ponsamuel



Happy, Son of Paul Ponnarasu on the following conditions:

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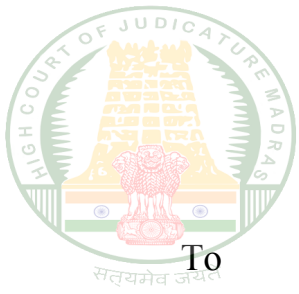
(i) The petitioner/appellant is ordered to be released on bail on his executing a personal bond along with two sureties for a sum of Rs.10,000/- each before the learned Additional Special Court for Exclusive Trial of Cases under POCSO Act, [Mahalir Neethimandram], Allikulam, Chennai-600 003, subject to furnishing undertaking that he will co-operate in the hearing of the present Appeal.

(ii) The petitioner/appellant shall appear before the trial Court once in three months on the first working day of English Calendar month at 10.30 a.m., until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

9. Accordingly, this Criminal Miscellaneous Petition is ordered.

24.02.2025

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To

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1.The Additional Special Court for Exclusive Trial of
Cases under POCSO Act, [Mahalir Neethimandram],
Allikulam, Chennai-600 003

2.The Inspector of Police,
W-6, All Women Police Station,
Ayanavaram Range,
Chennai-600 003.

3.The Public Prosecutor,
High Court of Madras, Chennai.



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M. NIRMAL KUMAR, J.

rpl

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in
CrI.A.No.201 of 2025

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