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Crl.M.P.No.4350 of 2024
in Crl.A.No.394 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

Crl.M.P.No.4350 of 2024
in Crl.A.No.394 of 2023

Muthuprakash

... Petitioner

Vs.

State through
The Inspector of Police
All Woman Police Station
Central
Coimbatore City
(Crime No.7/2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, praying to suspend the sentence imposed against the petitioner in Special S.C.No.94 of 2022 dated 06.03.2023 on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore and enlarge him on bail pending disposal of above criminal appeal.

For Petitioner : Mr.Subash
for M/s.Subash Law Office

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



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ORDER

The main appeal has filed against the sentence of the trial Court in Special S.C.No.94 of 2022, on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, for the offences U/s.5(1), 5(n) and Section 6 of POCSO Act, 2012 as well as U/s.376(3) of IPC. In the present application suspension of the sentence is sought for.

2. Learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, in Special S.C.No.94 of 2022, has convicted the petitioner and sentenced him as follows:-

<i>Offence</i>	<i>Sentence imposed</i>
	3 years R.I. along with a fine of Rs.1,000/- in default 3 months R.I.
U/s.5(1)(n) and Section 6 of POCSO Act, 2012 and Section 376 (3) of IPC	Life imprisonment along with a fine of Rs.10,000/- in default one year S.I.

3. Heard Mr.Subash, learned Senior Counsel appearing for the petitioner and Mr.S.Raja Kumar, learned Additional Public Prosecutor, appearing for the respondent Police.



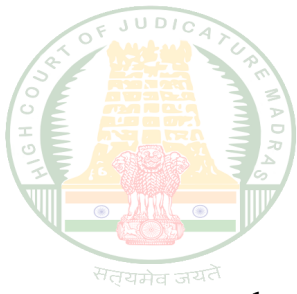
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4.The learned senior counsel appearing for the petitioner would submit that the main prosecution witnesses viz. P.W.1 who is the victim, P.W.2 her mother had not supported the prosecution case and they were treated hostile. The trial Court on the strength of the evidences of P.W.4 and P.W.9, who are the teachers of the school where the victim studies as well as P.W.8, the doctor who had examined P.W.1 had recorded the guilt of the accused and convicted him as aforesaid.

5.Learned Additional Public Prosecutor, however, referred to the various findings in the judgment of the trial Court and submitted that though P.W.1 and P.W.2 had turned hostile, the teachers of P.W.1 as well as the medical evidence supports the prosecution's case and therefore submitted that no interference is required and sought for dismissal of the above petition.

6.When the crucial witness viz. P.W.1 was treated as a hostile witness, the other three witnesses, who are only ear say witnesses of the incident through P.W.1, who herself has turned hostile, much credential



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ought not to have been given to the evidences. On a prima facie view, we are inclined to accept the submissions made by the learned senior counsel. We have also taken note of the fact that the appellant is under incarceration for more than two years from 06.03.2023, and that it may take considerable time for the appeal to be finally disposed. In this background also we are inclined to suspend the sentence.

7. Accordingly, this Criminal Miscellaneous Petition stands **allowed** and the sentence imposed on the petitioner is suspended on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties each, each for a like sum to the satisfaction of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore.

(ii) The petitioner and 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 and mobile numbers



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to ensure their identity;

(iii) The petitioner is directed to appear before the trial Court on the first working day of every month at 10.30 a.m., until the disposal of the appeal, and if he is not able to appear before the trial Court on any 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;

(iv) On the failure of any of the above conditions by the petitioner / accused, it is open to the trial Court to commit the petitioner / accused into custody for undergoing the sentence.

(M.S.R, J.)

(N.S, J.)

25.03.2025

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Note: Issue Order Copy on 27.03.2025

M.S.RAMESH, J.

and

N.SENTHILKUMAR, J.



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To

1.The Sessions Judge
Principal Special Court for Exclusive Trial of Cases
under POCSO Act, Coimbatore.

2.The Inspector of Police
All Woman Police Station
Central
Coimbatore City
(Crime No.7/2022)

3.The Superintendent of Prison
Central Prison
Coimbatore

4.The Public Prosecutor
High Court of Madras
Chennai 600 104

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