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Crl.MP.No.8478 of 2024 in Crl.A.No.728/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.03.2025

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

Crl.MP.No.8478 of 2024 in Crl.A.No.728/2024

Thirunavukkarasu

...Petitioner / Appellant

Versus

State by
The Inspector of police,
AWPS, Kancheepuram,
Kancheepuram District.
(Crime No.5 of 2019)

... Respondent

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence which was imposed by the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Chennai in new Spl.S.C.No.90 of 2019 dated 10.10.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.



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For Petitioner : Mr.V.R.Kamalanathan
For Respondents : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.Ramesh, J.)

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence, which was imposed by the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Chennai in new Spl.S.C.No.90 of 2019 dated 10.10.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The learned Special Judge for Exclusive Trial of Cases under POCSO Act, Chennai in New Spl.S.C.No.90 of 2019, has convicted the petitioner and sentenced him as follows:-

<i>Accused</i>	<i>Offence</i>	<i>Sentence</i>
A3	Section 366 IPC	10 years R.I and a fine of Rs.5,000/- i/d. 6 months S.I
	Section 4 r/w Section 3(a) of POCSO Act, 2012	10 years R.I and a fine of Rs.5,000/- i/d. 6 months S.I



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3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks for suspension of sentence and bail in the present miscellaneous petition.

4. Heard Mr.V.R.Kamalanathan, learned counsel appearing for the petitioner and Mr.S.Rajakumar, learned Additional Public Prosecutor, appearing for the respondent/Police.

5. The petitioner herein has been arrayed as A3 before the Trial Court. The overt act attributed against him is that on 03.06.2017, he had sexually assaulted the victim by using his hands.

6. The case of the prosecution is that the victim girl was impregnated by A4 and a child was also born to her. Before the Trial Court, the victim girl, P.W.2, as well as her mother, P.W.1 did not support the case of the prosecution. In the absence of their testimonies, implicating the petitioner / A3 to the crime, the petitioner may have a fair chance of success in the appeal. Further, we are informed that the petitioner herein has been in



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prison from 10.10.2023 i.e for almost 1 ½ years. We are also conscious of the fact that the appeal is not likely to be taken up in the near future and hence, on the above *prima facie* grounds, we are inclined to suspend the sentence of the petitioner/A3.

8. 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/-, with two sureties each, for a like sum to the satisfaction of the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Chengalpattu;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii) The petitioner shall 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



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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.

(M.S.R, J.)

(N.S, J.)

26.03.2025

Index: Yes/No

Anu

Note: Issue Order Copy on 27.03.2025

To

1.The Special Judge for Exclusive Trial
of Cases under POCSO Act, Chennai

2.The Special Judge for Exclusive Trial
of Cases under POCSO Act, Chengalpattu

3.The Inspector of police,
AWPS, Kancheepuram,
Kancheepuram District.

4.The Superintendent,
Central Prison, Puzhal, Chennai

5.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J

and

N.SENTHILKUMAR, J

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