



Crl.M.P.No.11072 of 2024
in Crl.A.No.1004 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

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

Crl.M.P.No.11072 of 2024
in Crl.A.No.1004 of 2024

R.Gangadharan

... Petitioner/A2

Vs.

State By
Inspector Of Police,
All Women Police Station,
Kanchipuram. Crime No.12/2021

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence in the Judgement dated 16.02.2024 in Spl.SC.No.59/2022 passed by the Court of the learned Sessions Judge, Special Court of Exclusive Trial of cases under POCSO Act, at Chengalpet in so far as convicting the Appellant/Accused-2 charged U/s 366 IPC and sentenced him 10 years Rigorous Imprisonment, further imposed with a fine of Rs.5000/- in



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default to undergo further period of 6 months simple imprisonment and sentence to undergo life imprisonment for charges U/s 5(1) r/w 6(1) of POCSO Act, further imposed with a fine of Rs.10,000/- in default to undergo further period of 1 year Simple Imprisonment and the period under gone by the Appellant/Accused-2 is ordered to be set-off U/s 428 Cr.PC.

For Petitioners : Mr.M.S.Ramesh

For Respondent : 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 imposed on the petitioner by the learned Sessions Judge, Special Court of Exclusive Trial of cases under POCSO Act, at Chengalpet on 16.02.2024 in Spl.S.C.No.59 of 2022 and enlarge him on bail.

2. The learned Sessions Judge, Special Court of Exclusive Trial of



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cases under POCSO Act, at Chengalpet in Spl.S.C.No.59 of 2022, has convicted the petitioner and sentenced him as follows:-

<i>Accused</i>	<i>Offence</i>	<i>Sentence</i>
A2	Section 366 IPC	10 years RI and a fine of Rs.5,000/- i/d. 6 months SI
	Sections 5(l) r/w 6(1) of POCSO Act	Life imprisonment and a fine of Rs.10,000/- i/d. 1 year SI

The sentences are ordered to run concurrently.

3. Challenging the above conviction and sentence, the petitioners have filed the above Criminal Appeal and they seek for suspension of sentence and bail in the present miscellaneous petition.

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

5. The independent witnesses examined in this case are P.W.1, victim's grandmother and P.W.2, the victim. Both these witnesses have turned hostile before the Trial Court. The only incriminating material



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which is available in this case is the DNA report, Ext.P.18, which was marked through P.W.5, the Investigating Officer. Even the report implicates the first accused alone. The only allegation against the petitioner/A2 is that he had threatened the victim girl, for which there is no evidence on record. As such, the petitioner herein may have a fair chance of success in the appeal. On this *prima facie* view, we are inclined to suspend the sentence of the petitioner/A2.

8. Accordingly, this Criminal Miscellaneous Petition stands **allowed**, and the sentence imposed on the petitioner herein, 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 POCSO Cases, Chengalpet;

(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



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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.

(M.S.R, J.)

(N.S, J.)

02.04.2025

Index: Yes/No

Anu

To

1.The Sessions Judge, Special Court of Exclusive Trial of cases under POCSO Act, at Chengalpet

2.The Special Judge for POCSO Cases, Chengalpet.

3.Inspector Of Police,
All Women Police Station,
Kanchipuram



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4.The Superintendent,
Central Prison-I, Chennai

5.The Public Prosecutor,
High Court, Madras.

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