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Crl.M.P.No.15020 of 2024 in Crl.A.No.1318 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.15020 of 2024
in Crl.A.No.1318 of 2024

Kannan

... Petitioner/Sole Accused

Vs.

1. The State Rep. by
The Deputy Superintendent of Police,
Tiruvannamalai District.

2. State represented by the
Inspector of Police,
Thanipadi Police Station,
Crime No.84 of 2022.

3. XXXX,
XXXX,
Thiruvannamalai District. ... Respondents

Prayer: Criminal Miscellaneous Petition filed under Section 430(1) of Bharatiya Nagarik Suraksha Sanhita to suspend the sentence imposed on the petitioner passed in Spl.C.C.No.70 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive of Trial cases under POCSO Act, Tiruvannamalai dated 19.03.2024 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner : Mr.P.M.Bosil

For R1 & R2 : Dr.C.E.Pratap,
Government Advocate (Crl. Side)



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For R3 : Mr.S.Kathiravan, Legal Aid Counsel

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by judgment and order dated 19.03.2024 passed in Spl.CC.No.70 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive of Trial cases under POCSO Act, Tiruvannamalai, and to enlarge the petitioner on bail pending disposal of the appeal.

2. It is the case of the prosecution that the victim belongs to the Scheduled Caste community and that she is studying in the VIII Standard in the school where the petitioner is working as a Kung Fu Master. Taking advantage of his position and to harass the victim sexually, it is alleged that while the victim was taking bath on 02.01.2022 at about 05:30 a.m. in her house, the petitioner peeped through the window and attempted to record a videograph. Thereafter, one month after the said occurrence, the petitioner is stated to have taken the dress materials of the victim, which were hanging near the bathroom while the victim was bathing.



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3. The petitioner was convicted for the offence under Sections 354D, 354C, 354(1)(i) of IPC and Section 11(iv) read with Section 12 of POCSO Act, 2012 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and Section 2(2)(v) of SC/ST (POA) Amendment Act, 2015 and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for six months.

4. Heard Mr.P.M.Bosil, learned counsel for the petitioner and Dr.C.E.Pratap, learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2.

5. Though notice has been served to the third respondent/ defacto complainant, none entered appearance on behalf of the third respondent/ defacto complainant. Therefore, this court has appointed Mr.S.Kathiravan as the legal-aid counsel to assist this court in the appeal on behalf of the third respondent/ defacto complainant.

6. Mr.S.Kathiravan, legal-aid counsel would submit that the



prosecution has established the case beyond reasonable doubt, and no grounds have been made out for an order of suspension of sentence.

7. The learned Government Advocate (Crl.Side) also submitted that the petitioner has not made out any ground for grant of suspension of sentence.

8. Considering the fact that there are several arguable points in the above appeal, which require consideration; the fact that the appeal is not likely to be taken up in the near future and also the fact that the petitioner is in custody from 03.10.2023, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- , with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive of Trial cases under POCSO Act, Tiruvannamalai;



(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 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 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.

03.01.2025
(2/2)

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Issue order copy by 07.01.2025.
Upload the order copy forthwith.

To

1. The Deputy Superintendent of Police,
Tiruvannamalai District.
2. The Inspector of Police,
Thanipadi Police Station,
Crime No.84 of 2022.
3. Learned Sessions Judge,
Special Court for Exclusive of Trial cases under POCSO Act,
Tiruvannamalai.



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4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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