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CRL MP No. 15261 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2025

CORAM

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

CRL MP No. 15261 of 2024

in

CRL.A. No.1338 of 2024

Fathima Moosa @ Dhanalakshmi
W/o.Suresh Kumar, No.269, Ganthi
Nagar, Dhurgai Amman Koil Backside,
Sholinganallur, Chennai - 600 119

Petitioner

Vs

The State Rep By Its,
The Inspector Of Police, Anti
Trafficking Cell, Crime Branch C.I.D
Egmore Chennai - 600 008 Cr.No.1 Of
2016.

Respondent

PRAYER : Criminal Miscellaneous Petition filed under Section 430 of BNSS/389(1) of Cr.P.C. to suspend the sentence of imprisonment imposed on the petitioner in SC.No.146 of 2018 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai Judgment dated 28.02.2023.



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For Petitioner : Mr.K.R.Ramesh Kumar

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

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

Challenging the order of conviction and sentence imposed as against the petitioner/appellant/A1 vide judgment dated 28.02.2023 passed in S.C.No.146 of 2018 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, the present criminal appeal and this petition for suspension of sentence have been filed.

2. Taking into consideration the fact that the petitioner/accused has been under incarceration from 21.01.2016 to 30.11.2017 and then from 04.10.2018 for more than eight years, as well the fact that the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentence of the petitioner, in the light of the decision of the Hon'ble Supreme Court in the case of *Satender Kumar Antil Vs. Central Bureau of Investigation and Another* reported in *(2023) 1 SCC (Cri) 1*, wherein the Hon'ble Supreme Court had



recorded that a prolonged appeal against an accused under custody or incarceration would be violative of Article 21 of the Constitution of India. So

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also, in the case of *Vishnubhai Ganpatbhai Patel and Another Vs. State of Gujarat* passed in *Criminal Appeal No.3415 of 2023, dated 03.11.2023*, which dealt with suspension of sentence on the ground of prolonged incarceration.

3. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** on the following conditions:

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

(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;

(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



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the Trial Court on any other day, in lieu of the date of his absence, as directed by the Trial Court and

(iv) This order of suspension shall be subject to payment of fine imposed on the petitioner by the Trial Court in the judgment.

[M.S.R., J] [N.S., J]
10.03.2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes/No

Neutral Citation: Yes/No

Asr

To

- 1.The Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai
- 2.The Inspector Of Police, Anti Trafficking Cell, Crime Branch C.I.D Egmore Chennai - 600 008 Cr.No.1 Of 2016.
- 3.The Superintendent, Central Prison, Special Prison for Women, Puzhal
- 4.The Public Prosecutor, Madras High Court, Chennai – 600 104.



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M.S.RAMESH J.
AND
N.SENTHILKUMAR J.

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