



*Crl.M.P.No.18171 of 2024
in Crl.A.No.1615 of 2024*

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-01-2025

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL MP NO. 18171 of 2024

in

Crl A No.1615 of 2024

NETHAJI

S/o.Kamalakannan, No.1/32, Vinayagar Koil Street,
Kandapuram, Palllipattu Taluk, Thiruvallur District.

Appellant(s)

Vs

1. The Inspector Of Police,
All Women Police Station, Cuddalore District.

2. Nazeer Ahamed

Respondent(s)

For Appellant(s):

Mr.P.Govindarajan

For Respondent(s):

Dr.C.E.Pratap Govt Advocate (crl Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in Special Sessions Case No.102 of 2019 dated 07.08.2024 on the file of the learned Special Court for exclusive Trial of cases of POCSO Act, Cuddalore and release the petitioner on bail pending



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disposal of the above Criminal Appeal.

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2. It is the case of the prosecution that the father of the victim has lodged a complaint on 05.09.2018 stating that when his daughter was studying in 11 Standard, the petitioner called and expressed his love for the victim girl; that he has been sending messages to the victim girl; that though the victim did not agree to the same, the petitioner compelled the victim girl to go to Pondicherry and that he took her to a beach and expressed his love; that thereafter, in the month of June 2016, when the victim girl was alone in the home, the accused fixed a camera in the wash room and took a video graph of the victim girl taking bath and that by threatening the victim girl that he would upload the video he had sexual intercourse with the victim forcibly.

3. The petitioner/accused in Special Sessions Case No.102 of 2019 was convicted by the Trial Court by judgment dated 07.08.2024 for the offences under Sections 4, 14 of the POCSO Act and Section 354 C IPC and Section 67B of the IT Act and sentenced to undergo 12 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo 3 months simple imprisonment ; for the offence under Section 14 of POCSO Act, sentenced to



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undergo 5 years rigorous imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo three months simple imprisonment; for the offence under Section 354 of IPC sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months simple imprisonment and for the offence under Section 67B of the IT Act, sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months simple imprisonment. Aggrieved by the same, he filed Crl.A.No.1615 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.The learned counsel for the petitioner would submit that the Defacto complainant/father of the victim girl is no more and hence, he was not examined; that the mother of the victim girl was also not examined for the reasons best known to the prosecution; that the victim girl in the cross examination had stated that the complaint against the petitioner is false and that the petitioner had not committed any penetrative sexual assault as alleged by the prosecution and therefore, the conviction and sentence imposed by the Trial Court cannot be sustained and hence, prayed for suspension of sentence.



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5. Heard the learned Government Advocate [Crl. Side] and also perused the materials available on record.

6. Admittedly, the mother of the victim girl was not examined by the prosecution. The father of the victim girl / defacto complainant and died before commencement of trial. The victim girl had stated in the cross examination that the petitioner had not committed any penetrative sexual assaults and that he had not committed any other offences. Therefore, this Court has to examine whether the conviction can be sustained in the light of the above evidence.

8. Considering the aforesaid facts; that there are several arguable points in the appeal, which requires consideration; the fact that the appeal is not likely to be taken up in the near future and since the petitioner is in custody from 07.08.2024, 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 till the disposal of the



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above Criminal appeal 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 Special Court for exclusive Trial of cases of POCSO Act, Cuddalore
- (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.

24.01.2025

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Issue order copy by 29.01.2025
Upload the order copy forthwith.



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SUNDER MOHAN, J.

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To

- 1.The Special Court for exclusive Trial of cases of POCSO Act, Cuddalore
- 2.The Superintendent,
Central Prison,
Cuddalore.
- 3.The Inspector Of Police,
All Women Police Station, Cuddalore District
- 4.The Public Prosecutor,
High Court, Madras.

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