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*Crl.M.P.No.16786 of 2024
in Crl.A.No.958 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.16786 of 2024

in

Crl.A.No.958 of 2024

Raja

... Petitioner / Accused

Vs.

State rep by
The Inspector of Police,
W-13, AWPS, Washermenpet,
Chennai-21
Cr.No.6 of 2019

... Respondent / Complainant

Prayer: Criminal Miscellaneous Petition has been filed under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita praying to suspend the sentence imposed on the petitioner/appellant by the learned Session Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai-104 in Spl.S.C.No.25 of 2020 by judgement dated 03.08.2023 and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.P.Syed Abdul Mashood

For Respondent : Dr.C.E.Pratap
Government Advocate (Crl.Side)



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ORDER

The Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/accused by the learned Session Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai-104 in Spl.S.C.No.25 of 2020 by judgement dated 03.08.2023 and enlarge the petitioner/accused on bail pending disposal of the above Criminal Appeal.

2. The case of the prosecution is that the defacto complainant was separated from her husband 12 years before the occurrence and was living with her son and daughter; that on 16.03.2019, when she went for work leaving her children, including the victim under the care of her mother, the petitioner, who was selling bangles and residing in the ground floor of the same building, called the victim girl into his house, hugged and kissed her and repeated the same for a month and thereafter, fondled her breast; and that the other accused, A2 and A3 had committed penetrative sexual assault on the victim girl.

3. The petitioner/accused in Spl.S.C.No.25 of 2020 was convicted by



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the learned Session Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai for the offences under Section 6 and 10 of POCSO Act and sentenced to undergo imprisonment for 5 years with fine of Rs.5,000/- each, in default to undergo simple imprisonment for 1 month. Aggrieved by the said order, the petitioner/accused filed Crl.A.No.958 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 evidence of the victim cannot be accepted that in any case, the petitioner has raised substantial grounds in the above appeal, which requires consideration. Considering the fixed period of sentence imposed by the trial Court and the fact that the petitioner is in custody from 03.08.2023, the learned counsel prays for suspension of sentence.

5. Heard the learned counsel for the learned Government Advocate (Crl.Side) for the respondent and perused the records, including the counter affidavit filed by the respondent.



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6. The learned Government Advocate (Crl.Side), per contra, submitted that the evidence of the victim corroborates her statement under Section 164 Cr.P.C and therefore, the petitioner has not made out any ground for suspension of sentence.

7. The petitioner has raised substantial grounds in the above appeal, which requires consideration. The appeal is not likely to be taken up in the near future. As against the total sentence of 5 years, the petitioner has spent 1 year and 5 months in jail. Therefore, this Court is inclined to grant suspension of sentence to the petitioner till the disposal of the above Appeal and the petitioner is ordered to be released on bail on the following conditions:

(i) The sentence of imprisonment alone, imposed on the petitioner/accused shall be suspended, on him executing a bond for a sum of Rs.10,000/- with two sureties, each for a likesum to the satisfaction of the learned Session 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 bond and the trial Court may obtain a copy of their



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

9. Accordingly, the Criminal Miscellaneous Petition is ordered.

30.01.2025
(2/2)

Anu

Issue order copy by 31.01.2025

Upload the order copy forthwith.

To

- 1.The Session Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai
- 2.The Superintendent,
Central Prison, Puzhal-I, Chennai
- 3.The Inspector of Police,
W-13, AWPS, Washermenpet,
Chennai-21



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SUNDER MOHAN, J.
Anu

4.The Public Prosecutor,
High Court, Madras.

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