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CRL MP No. 17608 of 2024 in
CRL A NO.1546 OF 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02-01-2025**

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL.M.P.NO.17608 OF 2024

in CRL A.No.1546 of 2024

A.KANNAN
S/O.APPU,
D.NO.22/35, KIL STREET, NEDUGAL COMBAI,
MELUR PANCHAYAT, COONOOR.

APPELLANT(S)

Vs

THE STATE, REP. BY
THE INSPECTOR OF POLICE, KOLACOMBAI
POLICE STATION, (CRIME NO.90/2019)

RESPONDENT(S)

For Appellant(s) : Mr.K.BALA GANESH

For Respondent(s): Dr.C.E.PRATAP
GOVERNMENT ADVOCATE (CRL. SIDE)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed in the judgment dated 30.06.2023 in Special C.C.No.25 of 2019 on the file of Sessions Court, Magalir Neethimandram (FTMC), Udthagamandalam, The Nilgiris and release the petitioner on bail, till the disposal of the appeal.



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2. The case of the prosecution is that the petitioner while travelling in a bus had made the victim children aged about 12 years, 7 years and 5 years respectively sit on his lap and thereafter touched their private parts inappropriately and also had bitten the hip of the 7 years victim child.

3. The petitioner/Accused in S.C.No.101 of 2016 was convicted by the Trial Court and sentenced for the offence under Section 9(m) r/w 10(2 counts) of POCSO Act to undergo rigorous imprisonment for Seven years and to pay a fine of Rs.1000/- and in default, to undergo simple imprisonment for six month on each count, under Section 9(m) r/w 10 (3 counts) of POCSO Act to undergo rigorous imprisonment for Seven years and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for six months on each count, under Section 9(I) r/w 10 of POCSO Act to undergo rigorous imprisonment for Seven years and to pay a fine of Rs.1000/- and in default, to undergo simple imprisonment for six months and under Section 506(ii) (2 counts) IPC to undergo rigorous imprisonment for three years and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for six months on each count. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1546 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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4. The learned counsel for the petitioner would submit that the alleged occurrence is said to have taken place on 16.08.2019 but the complaint was lodged belatedly by the Child Welfare Officer on 21.08.2019; that no complaint was lodged by the parents of the victim; that the petitioner is innocent and pursuant to the judgment of conviction, he is now in custody from 30.06.2023 and prayed for suspension of sentence.

5. Heard the learned Govt. Advocate (crl.side) and perused the counter affidavit filed on behalf of the State.

6. Considering the fact that the petitioner has raised substantial grounds in the above appeal which requires consideration; that fixed period of 7 years rigorous imprisonment has been imposed by the trial court and that the petitioner is in custody from 30.06.2023, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

7. 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:



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- (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, Magalir Neethimandram (FTMC), Udthagamandalam, The Nilgiris;
- (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.

02.01.2025

rgf

Issue order copy by 07.01.2025
Upload the order copy forthwith.



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To

1.The Sessions Judge,
Magalir Neethimandram (FTMC),
Udhagamandalam, The Nilgiris

2.The Inspector of Police,
Kolacombai Police Station,
Coonoor.

3.The Superintendent
Central Prison,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

rgt

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