



*Crl.M.P.No.20091 of 2023
in Crl.A.No.1644 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.20091 of 2023

in

Crl.A.No.1644 of 2023

1.Rajesh @ Rajesh Kumar
2.Selvam

... Petitioners /A1 & A3

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station,
Cheyyar,
Tiruvannamalai District.

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Cr.P.C. praying to suspend the sentence passed by the Special Court, POCSO Cases, Tiruvannamalai dated 13.10.2023, made in Spl.S.C.No.3 of 2019 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioners : Mr.R.Jawahar

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



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners by the judgment dated 13.10.2023 passed in Spl.S.C.No.3 of 2019 by the learned Sessions Judge, Special Court, POCSO Cases, Tiruvannamalai, pending disposal of the above criminal appeal and enlarge the petitioners on bail.

2. The case of the prosecution is that the petitioners and the victim/PW3 belonged to the same village and that she is the daughter of PW1 and PW2; that the first petitioner developed a love affair with the victim and on promise of marriage, had sexual intercourse with the victim and thereafter two other accused, who came to know of the affair, had threatened the victim and also had sexual intercourse with the victim.

3. The petitioners/A1 and A3 in Spl.S.C.No.3 of 2019 was convicted by the Trial Court by the judgment dated 13.10.2023 for the offences under Sections 376 of I.P.C. and 4 of POCSO Act, 2012 and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,000/- each accused, in



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default, to undergo simple imprisonment for one year (each accused).

Aggrieved by the same, they filed Crl.A.No.1644 of 2023 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.The learned counsel for petitioners would submit that A2 died pending trial; that the allegations against the petitioners are not proved; that the victim girl in her cross examination had denied having told her father about the alleged sexual intercourse by the petitioners; that the petitioners have raised substantial grounds in the above appeal, which requires consideration and since the petitioners are in custody from 13.10.2023, prayed for suspension of sentence.

5.The learned Government Advocate (Crl. Side) per contra fairly submitted that it is a fact that the victim had stated in her cross examination that the petitioner had not committed any offence.

6.On perusal of the evidence of victim, it is seen that she had deposed that she had not told her father that the petitioners had sexual intercourse with



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her. She had also admitted that she became pregnant and the petitioners were not responsible for the same and that she had not complained against the petitioners about the commission of any alleged offences. The question as to whether the conviction can be sustained in the light of the above evidence has to be considered in the above appeal. Considering the above fact and since the petitioners are in custody from 13.10.2023 and the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioners.

7. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioners is suspended till the disposal of the above Criminal appeal and the petitioners are ordered to be released on bail on the following conditions:

- (i) The petitioners shall execute a bond each 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, POCSO Cases, Tiruvannamalai;
- (ii) The petitioners 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



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mobile numbers to ensure their identity; and

(iii)The petitioners/A1 & A3 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 they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

30.01.2025

rsi

Issue order copy by 31.01.2025
Upload the order copy forthwith.

To

- 1.The Sessions Judge,
Special Court, POCSO Cases, Tiruvannamalai.
- 2.The Inspector of Police,
All Women Police Station,
Cheyyar, Tiruvannamalai District.
- 3.The Superintendent,
Central Prison,
Vellore.
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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