



WEB COPY



*Crl.M.P.No.17144 of 2024
in Crl.A.No.1510 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: **24-01-2025**
CORAM
THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL MP NO. 17144 of 2024
in Crl.A.No.1510 of 2024

Arockiasamy

Petitioner

Vs

State By
The Inspector of Police
W-18, All Women Police Station
M.K.B.Nagar
Chennai

Respondent(s)

For Petitioner(s):

Mr.M.J.Srinivas

For Respondent(s):

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

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence imposed upon the petitioner by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai 600 104, in Spl.S.C.No.66 of 2022 on convicting and sentencing the petitioner for the offence U/s.6 of POCSO Act altered to 10 of POCSO Act, sentenced to imprisonment for 5 years, with a fine of Rs.5,000/- in default to undergo S.I. for 1 month. U/s.366 of I.P.C. sentenced to imprisonment for 5 years with a fine of Rs.5,000/- in default to undergo S.I.



*Crl.M.P.No.17144 of 2024
in Crl.A.No.1510 of 2024*

for 1 month and enlarge the petitioner on bail.

WEB COPY

ORDER

This Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence imposed upon the petitioner by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai 600 104, in Spl.S.C.No.66 of 2022 and enlarge the petitioner on bail.

2.The case of the prosecution is that on 30.03.2021, the petitioner with a sexual intent took the victim child aged about 7 years by holding her hands to his home; that he closed the door, made her sit on his lap lifted her under garment and inserted his hand in her private part.

3. The petitioner/Accused in Special S.C.No.66 of 2022 was convicted by the Trial Court vide judgment dated 24.09.2024 for the offences U/s.6 of POCSO Act @ Section 10 of POCSO Act, sentenced to undergo **5** years imprisonment with a fine of Rs.5,000/- in default to undergo one month S.I. and for the offence U/s.366 of I.P.C., sentenced to imprisonment of **5** years, with a fine of Rs.5,000/- in default to undergo S.I. for 1 month. Aggrieved by



*Crl.M.P.No.17144 of 2024
in Crl.A.No.1510 of 2024*

the same, he filed Crl.A.No.1510 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.The learned counsel for the petitioner would submit that the petitioner was in custody during the investigation for a period of four months and that he is presently in custody from 24.09.2024; that the petitioner has raised several arguable points in the above appeal that the alleged eye witness to the occurrence viz. the brother of victim child was not examined by the prosecution; and that the evidence of doctor shows that there are no external injuries on the victim and that the trial Court had disbelieved the prosecution version with regard to penetrative sexual assault.

4.Heard the learned Government Advocate (Crl. Side). Perused the counter affidavit.

5.The learned Government Advocate would submit that the prosecution has established the case beyond reasonable doubt; that the evidence of victim inspires confidence; and that the petitioner has not made out grounds for suspension of sentence and prayed for dismissal.



*Crl.M.P.No.17144 of 2024
in Crl.A.No.1510 of 2024*

WEB COPY

6.The petitioner has been sentenced to **5** years R.I. for the offence U/s.10 of POCSO Act. Admittedly, the petitioner was in custody for a period of four months from investigation and he is in custody from 24.09.2024. The petitioner has raised substantial grounds in the above appeal. Considering the submissions made by the learned counsel for the petitioner, and the period of incarceration suffered by the petitioner, this Court is inclined to suspend the sentence.

8. 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 is ordered to be released on bail on the following conditions:

- (i) The petitioner/accused 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 Judge, (Trial for the offence Under Protection of Children from Sexual Offences 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 Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and



*Crl.M.P.No.17144 of 2024
in Crl.A.No.1510 of 2024*

WEB COPY

(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 they are not able to appear before the trial Court on any day, they shall make arrangements to file an application U/s.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

kas

Issue order copy by 28.01.2025
Upload the order copy forthwith.

To

1.The Special Judge, (Trial for the offence
Under Protection of Children from
Sexual Offences Act)
Chennai.

2.The Inspector Of Police
W18,AWPS
M.K.B.Nagar, Chennai



WEB COPY



*Crl.M.P.No.17144 of 2024
in Crl.A.No.1510 of 2024*

SUNDER MOHAN, J.

kas

3.The Superintendent,
Central Prison
Puzhal-I

4.The Public Prosecutor,
High Court, Madras.

CRL MP NO. 17144 of 2024
in Crl.A.No.1510 of 2024

24.01.2025