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*Crl.M.P.No.9899 of 2025
in Crl.A.No.455 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.9899 of 2025
in
Crl.A.No.455 of 2025

Sathish Periane

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Kirumampakkam Police Station,
Puducherry.
(Crime No.35/2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023, to suspend the sentence imposed upon the petitioner/appellant by the Special Sessions Judge under the POCSO Act, Principal Session Judge in S.S.C.No.46 of 2022 dated 13 April 2023 and enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.G.Baskar

For Respondent : Mr.K.S.Mohandass
Public Prosecutor (Puducherry)



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence imposed by the learned Principal Session Judge, Special Sessions Judge under the POCSO Act, Puducherry, by the judgment dated 13.04.2023 in Spl.S.C.No.46 of 2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The case of the prosecution is that the victim girl, aged about 5 years, is the own daughter of the petitioner and it is alleged that while the victim minor child stayed with him in his sister's house, when the victim girl was sleeping next to him, he subjected her to penetrative sexual assault by inserting his index finger inside her vagina and continued to do the same on several occasions till 10.04.2022, thereby caused injury on her sexual organ. It was intimated to the mother of the victim girl and thereafter, she lodged complaint and the same was registered in Crime No.35 of 2022 on the file of the respondent police.



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3. After completion of enquiry, the respondent filed final report and the same has been taken cognizance in Spl.S.C.No.46 of 2024 on the file of the learned Principal Session Judge, Special Sessions Judge under the POCSO Act, Puducherry. After trial, the trial Court found the petitioner guilty for the offences under Section 376(2)(f) of IPC and Section 5(i)(l)(m) r/w Section 6 of the POCSO Act and he has been convicted and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1,000/- in default, to undergo further two years simple imprisonment. Aggrieved by the same, the petitioner filed the appeal along with the present petition.

4. The learned Senior Counsel appearing for the petitioner submitted that there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioner/accused may be suspended. He would submit that the petitioner are ready to abide any condition to be imposed by this Court.

5. Per contra, the learned Additional Public Prosecutor appearing



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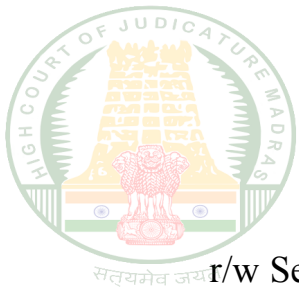
for the respondent/State raised serious objection for allowing this petition.

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Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. He further submitted that the petitioner was also convicted in another case for the very same offences of committing penetrative sexual assault on the minor victim girl, who was residing opposite to his house, in Spl.S.C.No.101 of 2023 by an order dated 01.11.2023 for the offences under Section 5 (1) r/w 6 of the POCSO Act and sentenced him to undergo life imprisonment. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

6. Heard the learned counsel appearing on either side and also perused the materials placed on record.

7. On perusal of records, it is revealed that the petitioner had committed very serious offence by committing penetrative sexual assault on the victim girl, who is none other than own daughter. The statement recorded from the victim girl under Section 164 of Cr.P.C., revealed that the petitioner had committed the offence punishable under Section 5(i)(1)(m)



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r/w Section 6 of the POCSO Act. There is a clinching evidence to prove the case of the prosecution and the prosecution had proved the case beyond the reasonable doubts. Further, the petitioner failed to make out *prima facie* case to suspend the sentence. That apart, the petitioner also convicted for life imprisonment for committing very same offence on another victim girl, who is residing opposite to his house. Hence, this Court is not inclined to allow this petition.

8. Accordingly, the Criminal Miscellaneous petition stands dismissed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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G.K.ILANTHIRAIYAN, J.

rts

To

1. The Principal Session Judge,
Special Sessions Judge under the POCSO Act,
Puducherry,

2. The Inspector of Police,
Kirumampakkam Police Station,
Puducherry.

3. The Public Prosecutor,
Madras High Court,
Chennai.

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