



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17-03-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL MP(MD) NO. 2830 of 2024
in CRL A(MD)NO.889 of 2022

Murugan

Petitioner(s)

Vs

The State of Tamil Nadu
Rep by The Inspector of Police,
Pettai Police station,
Tirunelveli.
Crime No. 631/2020

Respondent(s)

For Petitioner(s):

AK.Azagarsami

For Respondent(s):

P.Kottaichamy

Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition is filed by the petitioner /accused to suspend the sentence imposed as against him by the learned Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tirunelveli, in Spl.S.C.No.101 of 2020, dated 23.11.2022.

2.The petitioner was charged for the offence u/s.448 IPC and Section 10 r/w 9 (m) of the POCSO Act. The trial Court has found the petitioner / accused guilty for



the offence u/s.451 IPC and Section 10 of the POCSO Act, convicted and sentenced him as follows:-

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- to undergo rigorous imprisonment for one year and a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for three months, for the offence u/s.451 IPC;
- to undergo rigorous imprisonment for five years and a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for six months, for the offence u/s.10 of POCSO Act.

3.The earlier application filed by this petitioner to suspend the sentence in CrI.MP(MD)No.16502 of 2022 was dismissed by this Court by order dated 12.05.2023. The petitioner has now moved this application that even after the dismissal order of this Court, the main appeal has not been taken up for final hearing and that he is having sufficient grounds in the appeal.

4.Learned counsel for the petitioner/appellant submitted that the petitioner was found guilty for bad touch and also for the offence u/s.451 IPC. Admittedly, the child was sitting outside of the house and this petitioner said to have touched the backside of the victim. This wording has been inserted in the complaint Ex.P1 intentionally by the prosecution. By referring to the document Ex.P1 and the evidence of the investigation officer, the learned Counsel submitted that this word has been



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inserted subsequently to make out a case as against the petitioner. He further submitted that there is a civil dispute between the petitioner's family and the complainant's family. Without considering the same, the trial Court has mechanically convicted the petitioner. He further submitted that the petitioner was convicted for five years period and he has already undergone 2 years and 4 months in prison. He further undertook that the petitioner would not visit the occurrence place till the disposal of the appeal and prayed to suspend the sentence pending the criminal appeal.

5.The learned Government Advocate appearing for the State submitted that the trial Court has considered the evidence and the documents produced by the prosecution and rightly found the petitioner guilty and convicted. Therefore, he has raised his objection to suspend the sentence imposed on the petitioner, pending this appeal.

6.This Court considered the submissions made by the learned Counsel on either side and perused the materials placed on record.

7.Admittedly, the petitioner was imposed with a sentence of five years rigorous imprisonment, of which, he has already undergone 2 years and 4 months. Though the earlier application filed by him for suspending the sentence was dismissed, the appeal has not been taken up for final disposal yet. Further, the appeal could not be



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taken up for final hearing in the near future. In view of the same, coupled with the undertaking given by the petitioner's Counsel, this Court is inclined to suspend the sentence imposed on the petitioner.

8. Accordingly, this miscellaneous petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal. The petitioner is ordered to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tirunelveli and on filing an affidavit of undertaking before the trial Court that he will not visit the occurrence village pending disposal of the appeal.

9. The petitioner shall stay at Madurai and shall report before the Station House Officer, Tallakulam Police Station, Madurai, daily at 10.30 a.m., until further orders.

sd/-
17/03/2025

/ TRUE COPY /

19/03/2025
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

gk
TO

1 THE JUDGE, SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER
POCSO ACT, TIRUNELVELI.

<https://www.mhc.tn.gov.in/judis/>



2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

3 THE INSPECTOR OF POLICE
PETTAI POLICE STATION, TIRUNELVELI DISTRICT.

4 THE STATION HOUSE OFFICER, TALLAKULAM POLICE STATION,
MADURAI.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.2830 of 2024
Date :17/03/2025

NBF/SAR/ (19/03/2025) 5P/6C

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