



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)**

Thursday, the Twenty Ninth day of September Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice B.GOKULDAS

CRL MP(MD) No.842 of 2016

IN

CRL A(MD) No.25 of 2016

D. SELVAKUMAR

... PETITIONER/APPELLANT

Vs

**THE STATE OF TAMILNADU, REP. BY THE INSPECTOR OF POLICE
ERANIEL POLICE STATION,
KANYAKUMARI DISTRICT**

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed in S.C.No. 112 of 2013 on the file of the Fast Track Mahila Court, Nagercoil dated 12.08.2015 and grant bail to the Appellant, pending disposal of the main Crl.A.

Order :This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S C.K.M.APPAJI, Advocate for the petitioner and of M/S.S.PRABHA,GOVT.ADVOCATE(CRL.SIDE) on behalf of the Respondents the court made the following order:-

The learned counsel for the petitioner and the learned Government Advocate(Crl. Side) for the respondent are present and heard.

2. The sole accused in S.C.No.112 of 2013, on the file of the learned Sessions Judge, Mahalir Fast Track Court, Nagercoil, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) of Cr.P.C.

3. After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 366(A) I.P.C.	8 year R.I. + Fine Rs.10,000/-, i/d 1 Year S.I.
Section 376(2) (h) I.P.C.	10 years R.I. + Fine Rs.10,000/-, i/d 1 Year S.I.

4. The fine amount has already been deposited.

5. The learned counsel for the petitioner submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. Further, the petitioner was in judicial custody from 12.08.2015.



6. The learned Government Advocate (Criminal Side) submitted that appreciating the evidence adduced the Trial Court has rightly convicted and appropriately sentenced the petitioner. Further, he has strongly objected for allowing this petition.

7. In the facts and circumstances, perusing the impugned Judgment and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal appeal. They are required to be examined in detail in the main criminal appeal. Further, it will take some time for the disposal of the criminal appeal. Further, now the petitioner was confined at Central Prison, Palayamkottai, by which, the necessity to consider this petition arises. On considerations, ordered as under:

- (i) The sentence alone suspended till the disposal of the appeal.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the like sum each to the satisfaction of the learned Judicial Magistrate, Eraniel.
- (iii) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m., until further orders.

sd/-

29/09/2016

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE, ERANIEL
- 2 THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI AT NAGERCOIL
- 3 THE FAST TRACK MAHILA COURT, NAGERCOIL.
- 4 THE INSPECTOR OF POLICE, ERANIEL POLICE STATION,
KANYAKUMARI DISTRICT.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S C.K.M.APPAJI Advocate SR.No. 57175

pmu

JA-GSV-PM-SAR.II-5.10.2016/2P:8C

ORDER IN
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Date :29/09/2016