

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Fourth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.2029 of 2017

IN CRL A.235/2016

SURESH, AGED 29 YRS, [PETITIONER]

Vs

THE INSPECTOR OF POLICE [RESPONDENT]
ALL WOMEN POLICE STATION,
UDHAGAMANDALAM,
NILGIRIS DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.235/2016 on the file of the High Court, the High Court will be pleased to suspend the sentence the execution of the sentence dated 27/11/2015 passed in Spl.S.C.No.4/2015 against the Petitioner/Appellant by the Learned Mahila Judge, (Fast Track Court) Udhagamandalam Nilgiris District, enlarge the appellant petitioner on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.235/2016 on the file of the High Court and upon hearing the arguments of M/S.J.T.RAJASURIYA, Advocate for the petitioner and of Public Prosecutor on behalf of the Respondent the court made the following order:-

The Criminal Appeal has been filed by the accused / appellant, challenging the conviction and sentence imposed on him in Spl.S.C.No.4 of 2015, under Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012) (POCSO Act) (in short "the Act").

2. The learned counsel appearing for the appellant / accused would submit that the prosecution case was originally filed under Sections 7 and 8 of the Act and finding that the medical evidence is not supporting the case under Section 7 or 8 of the

Act, the trial court had convicted him under Sections 3 and 4 of the Act. It is also submitted that the accused is in custody for more than one-and-half years and considering the period involved in taking up the appeal, the sentence may be suspended.

3. The learned counsel for petitioner would further submit that there are several infirmities and inconsistencies in the prosecution case. It is also contended that there are contradictions in material particulars in the evidence of the prosecution witnesses.

4. Heard learned Government Advocate [Crl. Side] on the submissions made by learned counsel for petitioner.

5. Taking into consideration the submissions made by the learned counsel for petitioner and that the Appeal is not likely to be taken-up for final hearing in the near future and considering the fact that the accused is in custody for more than one-and-half years, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Mahila Judge (Fast Track Court), Udthagamandalam, Nilgiris District, and on further condition that petitioner shall appear before the said Court on the first working day of every month, at 10.30 a.m., pending Appeal.

7. Post the Criminal Appeal in the usual course.

-sd/-
24/10/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE MAHILA JUDGE
(FAST TRACK COURT)UDHAGAMANDALAM, NILGIRIS
DISTRICT

2 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, UDHAGAMANDALAM,
NILGIRIS DISTRICT.

+1 C.C. to M/S.J.T.RAJASURIYA Advocate on payment of
necessary charges 19701

Order
in
CRL MP.2029/2017
in
CRL A.235/2016

Date :24/10/2017

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copies of the BAIL/Anti.BAIL Orders in this format

MD: 26/10/2017