

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.8291 of 2017

IN CRL A.386/2017

RAJESHKUMAR

[PETITIONER]

Vs

STATE REPRESENTED BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THUDIYALUR, COIMBATORE DISTRICT.
CR.NO.15 OF 2014.

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased To suspend the sentence imposed on the petitioner in SC No.226 of 2014 by the learned Sessions Judge, Magalir Neethimaram, Coimbatore by a judgment dated 07.06.2017 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.K.BALASUBRAMANIAM, Advocate for the petitioner and of MR.K. MADHAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

Heard both sides.

2. The petitioner seeks suspension of sentence pending disposal of the appeal.

3. The petitioner/appellant herein is the accused in S.C.No.226 of 2014 on the file of the learned Sessions Judge, Magalir Neethimandram, Coimbatore. He was convicted and sentenced to undergo two years Rigorous Imprisonment and also to pay a fine of Rs.2,000/- in default, to undergo one month Simple Imprisonment for an offence under Section 498[A] IPC. The sentence of imprisonment was ordered to run concurrently.

4. Learned counsel for the petitioner would submit that there are several flaws committed by the Investigating Officer, that the Trial Court, without proper appreciation of the materials available on record, convicted the accused, that the ingredients of the offence were not proved and that therefore, it is a fit case to suspend the sentence.

5. Learned Government Advocate [Criminal Side] appearing for the respondent would submit that the petitioner has been rightly convicted by the Trial Court and there is no ground to suspend the sentence.

6. I have perused the grounds of appeal and the judgment of the Trial Court. The appeal raises several points of fact and law. The appeal has been preferred without any delay. There is no fear that he would abscond and would not be available to undergo sentence if the Appellate Court affirms the order passed by the Trial Court. The appellant has already paid the fine amount. In these circumstances, it may not be right to expect the petitioner to serve the sentence during the pendency of the appeal. Taking all these factors into consideration, I am inclined to suspend the sentence of imprisonment alone till the disposal of the appeal and grant bail subject to stringent condition.

7. Hence, the sentence of imprisonment imposed on the petitioner by the lower Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on his executing a bond for Rs.5,000/- [Rupees Five Thousand only] with two sureties each for a likesum to the satisfaction of the learned Sessions Judge, Magalir Neethimandram, Coimbatore, within a period of two weeks from the date of this order and on further condition that the petitioner shall report before the trial Court once in a week on every Monday at 10.30 a.m. until further orders.

-sd/-
04/07/2017

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 LEARNED SESSIONS JUDGE
MAGALIR NEETHIMANDRAM, COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE, ALL WOMEN POLICE
STATION, THUDIYALUR, COIMBATORE DISTRICT.

+2C.C. to M/S.K.BALASUBRAMANIAM Advocate on payment of
necessary charges SR.NO.12153

Order

in
CRL MP.8291/2017

in
CRL A.386/2017

Date :04/07/2017

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EGR 06/07/2017