

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eleventh day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.8797 of 2017

IN CRL A.318/2017

KUMARESAN,

[PETITIONER/APPELLANT]

Vs

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PERAMBALUR.

[RESPONDENT]

CR.NO.32 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.318 OF 2017 on the file of the High Court, the High Court will be pleased to Suspend the sentence imposed in Spl.S.C.No.19 of 2016 dated 31.05.2017 by the Mahila Court at Perambalur and enlarge the petitioner on bail pending disposal of the above Crl.A. Petition No.318 of 2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.318 of 2017 on the file of the High Court and upon hearing the arguments of MR.D.MARIOJOHNSON, Advocate for the petitioner and of MR. Mr.K.MATHAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

Heard both sides.

2. The petitioner/appellant herein is the accused in Special Sessions Case No.19 of 2016 on the file of the Mahila Court, Perambalur. He was prosecuted for the offences under Section 5(1) read with 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 366 IPC, on the basis of the allegation that, the petitioner abducted the victim girl and committed aggravated sexual assault on her. After full trial, the Trial Court has convicted the petitioner for the offence under Section 5(1) read with 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo ten years Rigorous imprisonment and also to pay a fine of Rs.5,000/-, in default, to undergo three years Rigorous Imprisonment. However, he was acquitted of the offence under Section 366 IPC. Aggrieved by the judgment of the Trial Court, he has preferred the above appeal. Pending appeal, the present petition has been filed to suspend the sentence.

3. The learned counsel appearing for the petitioner would submit that it is a case of love affair. At the time of occurrence, the victim girl was aged 18 and that, no occurrence as alleged by the prosecution has been committed by the petitioner. According to him, the petitioner hails from a poor background and the victim girl belongs to a rich family. At the instigation of the parents of the victim girl, a false complaint has been lodged against the petitioner. He would further submit that the petitioner has been in custody since 31.05.2017. Therefore, it is a fit case for ordering suspension of sentence.

4. The learned Government Advocate [Criminal Side] appearing for the respondent has filed objection. According to him, the case is supported by the evidence of the victim girl and other evidence and the Trial Court has rightly convicted the accused and that, the petitioner is not entitled to be released on bail at this stage.

5. I have perused the grounds of appeal and the judgment of the Trial Court. It is seen that the Trial Court has partially disbelieved the case of the prosecution for the offence under Section 366 IPC. According to the prosecution, the victim girl was aged 17 and a college student. The petitioner is also B.Sc. B.Ed. degree holder. His antecedents are not reported to be bad. It is also seen that the accused has raised arguable points. The petitioner has been in custody since 31.05.2017. There is no fear that he will flee from justice. He was sentenced to a fixed period of ten years imprisonment. 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.

6. Hence, the sentence of imprisonment imposed on the petitioner by the Trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on executing a bond for Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a likesum to the satisfaction of the learned Special Court of Mahila Court, Perambalur, within a period of two weeks from the date of this order and on further condition that the petitioner shall report before the respondent Police on the first working day of the English Calender month at 10.30 a.m. until further orders.

-sd/-
11/08/2017

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 SPECIAL COURT OF MAHILA
COURT, PERAMBALUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PERAMBALUR.

+1 C.C. to M/S.D.MARIOJOHNSON Advocate on payment of necessary
charges-Sr.15339

Order

in
CRL MP.8797/2017

in
CRL A.318/2017

Date :11/08/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
ths : 11.08.2017