



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

Wednesday, the Nineteenth day of April Two Thousand Seventeen

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.579 of 2017
IN
CRL A(MD) No.17 of 2017

S.RAJU ... PETITIONER / APPELLANT / SOLE ACCUSED

Vs

STATE THROUGH
THE DEPUTY SUPERINTENDENT OF
POLICE SIRKAZHI SUB DIVISION,
AANAIKARAN
CHATHRAM POLICE STATION,
CRIME NO. 168/2011,
NAGAPATTINAM DISTRICT. ... RESPONDENT / RESPONDENT /COMPLAINANT

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 on the Petitioner by the Learned I Additional District and Sessions Court (PCR) Thanjavur in Special S.C. NO. 73 of 2013 dated 05.12.2016 and enlarge the Petitioner on bail pending disposal of the above Criminal Appeal.

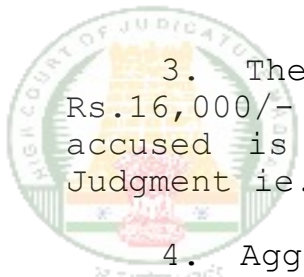
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.N.ANANTHAPADMANABHAN, Advocate for the petitioner and the court made the following order:-

(Order Reserved on 09.03.2017)

The accused in S.S.C.No.73 of 2013, on the file of the learned 1st Additional District and Sessions Judge, (PCR) Thanjavur, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

2. After trial, the petitioner has been convicted and sentenced as under:

Conviction	Sentence
Section 341 of IPC.	Fine Rs.500/- i/d. 1 Week S.I.
Section 342 of IPC.	6 Months S.I. + Fine Rs.500/- i/d. 1 Month S.I
Section 376(ii) of IPC.	10 Years R.I. + Fine Rs.10,000/- i/d. 1 Year R.I
Section 506(ii) of IPC.	3 Years R.I. + Fine Rs.5,000/- i/d. 6 Months S.I



3. The total fine amount imposed by the trial Court is Rs.16,000/- and the same has not been paid by the accused. The accused is confined in Central Prison, Trichy from the date of Judgment ie., on 05.12.2016.

4. Aggrieved by the order of conviction and sentence, the accused preferred an appeal before this Court and is pending as CrI.A.(MD)No.17 of 2017. The impugned petition seeking suspension of sentences imposed on the accused is filed by the son of the accused.

5. The learned counsel appearing for the petitioner would submit that the alleged occurrence took place between 23.03.2011 at around 20.30 Hrs and 24.03.2011 at about 14.00 Hrs, but the complaint / Ex.P1 was given only on 28.03.2011 and FIR / Ex.P7 was registered on 30.03.2011 and the said complaint reached the Court only on 06.04.2011. He would further submit that P.W.8 / Doctor deposed that the victim was examined on 02.05.2011 by her and the alleged occurrence took place on 24.03.2011. It is further submitted that there is no evidence to prove the fact that the victim was aged about 10 years old and was studying 6th Standard on the date of occurrence and also that the victim was unconscious stage because of giving sedative drugs given by the accused during occurrence. He would further pointed out that the accused is aged about 74 years old and potency of the accused was not proved through a proper medical examination, as per the evidence of P.W.9 / Doctor, who examined the accused on 04.05.2011 and there are several discrepancies and contradictions in the evidence of prosecution and that the accused is having arguable points in this appeal and he is having prima facie case.

6. The learned Government Advocate (Criminal Side) appearing for the respondent, on instructions and also by filing counter, would submit that the trial Court has rightly convicted the accused by appreciating the evidence produced by the prosecution and also the medical evidence proved the offence of rape upon the victim and the accused is not having any prima facie case in this appeal.

7. Perused the materials on record and heard the rival submissions made by either side.

8. As per the Judgment of the trial Court, the accused is aged about 70 years on the date of Judgment and has all age related deceases and the accused is a retired school teacher and it is an unfortunate case of rape committed against a 10 years old girl by a 70 years old man. Considering the above facts and circumstances of the case and on perusal of the judgment of the trial Court and the evidence relied on by the trial Court for conviction, this Court finds that there are 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.

<https://hcservices.ecourts.gov.in/hcservices/>

9. On considerations, ordered as under:

(i) Appeal bail granted.

(ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond



for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties for the like sum each to the satisfaction of the learned I Additional District and Sessions Judge (PCR) Thanjavur.

(iii) Suspension of payment of fine is also ordered on deposit of Rs.16,000/- before the trial Court or furnishing security to the satisfaction of the concerned Judge.

(iv) The petitioner shall appear before the said Court on the first working day of every English Calender Month at 10.30 a.m., until further orders.

sd/-

19/04/2017

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

TO

1 THE IST ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PCR COURT, THANJAVUR.

2 THE DEPUTY SUPERINTENDENT OF POLICE
SIRKAZHI SUB DIVISION,
AANAICKARAN CHATHRAM POLICE STATION,
NAGAPATTINAM DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY,

4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.N.ANANTHAPADMANABHAN Advocate SR.No.20448

SVA/KKR/21.04.2017/SAR4/3P/6C

ORDER

IN

CRL MP(MD) No.579 of 2017

IN

CRL A(MD) No.17 of 2017

Date :19/04/2017