

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fifteenth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.634 of 2018

IN CRL A.99/2015

NAGARAJAJ,

[PETITIONER]

Vs

THE INSPECTOR OF POLICE
UDUMALPET POLICE STATION,
CR.NO.7 OF 2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.99 of 2015 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the Judgment dated 29.01.2015 passed in Special SC.No.5/2014 on the file of Mahalir Neethimandram, Fast Track Mahila Court (Sessions Judge, Mahila Court), Thiruppur and enlarge the petitioner on Bail pending disposal of the above Criminal Appeal.[CRL.MP.NO.634/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.99/2015 on the file of the High Court and upon hearing the arguments of M/S.R.NALLIYAPPAN Advocate for the petitioner and of Mrs.T.P.SAVITHA Government Advocate[crl.side] on behalf of the Respondent the court made the following order:-

Petitioner faced trial in Spl.C.C.No.5 of 2014 on the file of the learned Sessions Judge, Mahalir Neethimandram, (Fast Track Mahila Court) Thiruppur Trial Court under Judgment dated 29.01.2015 convicted the petitioner for the offences under Section 376(1) IPC and section 5(1) of the Protection of Children from Sexual Offences Act 2012 and sentenced him to two years R.I. and to pay a fine of Rs.1,000/- in default, to undergo one month S.I. for the offence under Section 376(1); ten years R.I. and to pay a fine of Rs.1,000/- in default, to undergo three months S.I. for the offence under section 5 (1) of the Protection of Children from Sexual Offences Act 2012. Hence, this miscellaneous petition has been filed seeking suspension of sentence.

2. Learned counsel for the petitioner would submit that there

are several infirmities and inconsistencies in the prosecution case. He would further submit that the petitioner is in custody from the date of occurrence i.e. 04.01.2013 almost half of the period of conviction has been undergone by the petitioner.

3. The learned Govt. Advocate (Crl.side) would strongly object for granting bail to the petitioner.

4. Taking into consideration the submissions of learned counsel for the petitioner and that the appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence.

5. Considering the nature of incarceration in jail for the past five years, this Court is inclined to grant bail to the petitioner. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Udumalpet and on further condition that the petitioner shall appear before the respondent police once in a week i.e., on every Monday at 10.00 a.m. pending appeal.

-sd/-

15/03/2018

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 JUDICIAL MAGISTRATE,
NO.I, UDUMALPET

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
UDUMALPET POLICE STATION,

5 THE MAHALIR NEETHIMANDRAM
FAST TRACK MAHILA COURT[SESSIONS JUDGE ,
MAHILA COURT], THIRUPPUR

6 THE SUPERINTENDENT
CENTRAL PRISON, COIMBATORE

+1 C.C. to M/S.R.NALLIYAPPAN Advocate on payment of necessary
charges SR.NO. 5119

Order

in
CRL MP.634/2018

in
CRL A.99/2015

Date :15/03/2018

From 7.2.2001 the Registry is issuing certified
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RD 15/03/2018