



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

Wednesday, the Twenty Fourth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) No.250 of 2018

IN

CRL A(MD) No.22 of 2018

ANANDAKANNAN,

... PETITIONER/APPELLANT
(SOLE ACCUSED)

Vs

THE STATE REP.BY ITS,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUCHENDUR,
THOOTHUKUDI DISTRICT.
CRIME NO.3/2016.

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of imprisonment imposed by the Learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, Thoothukudi District by the Judgement in S.C.No.31 of 2016 dated 25.09.2017 and enlarge appellant on bail pending disposal of the above Criminal Appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.R.ANBARASU, Advocate for the petitioner and of MRS.S.BHARATHI, Government Advocate for the Respondent the court made the following order:-

The petitioner has been convicted in Spl.S.C.No.31 of 2016, by the learned Sessions Judge, Fast Track Mahila Court, Thoothukudi, on 25.09.2017, for the offence under Section 9(m) r/w 10 of the Protection of Children from Sexual Offences Act, 2012, and sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months rigorous imprisonment. Challenging the same, the petitioner has filed Crl.A.(MD) No.22 of 2018 and the present miscellaneous petition seeking for suspension of his sentence and bail.



2. The learned counsel for the petitioner submitted that a false case has been foisted against the petitioner inasmuch as there is no evidence to corroborate the testimony of the victim girl "X". He further submitted that there is a discrepancy in the place of occurrence, inasmuch as the landlord, namely, P.W.12 had stated that the accused was leased out only the terrace portion and he was not permitted to occupy any other portion, but whereas, the victim girl in her evidence had stated that the accused had directed her to carry Carrom Board to the top floor.

3. This Court carefully perused the evidence of the victim girl.

4. On a reading of the evidence of the victim girl, it is seen that she was aged about 11 years and studying sixth standard when she gave evidence. Further, it is seen that she went for tuition along her sister (P.W.4) and since the Tuition Teacher, by name, Sugantha was not available, the victim girl and her sister were narrating the lessons to the accused; that the accused asked the victim girl to keep Carrom Board in the upper portion and when she went to upper portion with Carrom Board, the accused came behind, hugged and kissed her. In a case of this nature, there cannot be any independent corroborative evidence, because no one would do such acts with witnesses around. Though there may be some discrepancies, yet the same are not so-fatal to dislodge the testimony of the victim girl. Under such circumstances, this Court does not find any patent irregularity or perversity in the appreciation of the evidence by the Trial Court and this Court is of the view that this is not a fit case to suspend the sentence imposed on the accused by the Trial Court.

5. In the result, the criminal miscellaneous petition is dismissed. It is needless to state that whatever stated above is only for deciding the suspension of sentence petition. If the main appeal is not disposed of within six months, liberty is given to the petitioner to renew the bail application.

sd/-
24/01/2018

/ TRUE COPY /

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



krk
TO

1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THOOTHUKUDI, THOOTHUKUDI DISTRICT

WEB COPY

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, TIRUCHENDUR,
THOOTHUKUDI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

4 THE SUPERINTENDENT CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT

+1. C.C. to M/S.S.R.ANBARASU Advocate SR.No.1355

GJM/CSL/RR/SAR-I-29.1.18-3P-6C

ORDER
IN
CRL MP (MD) No.250 of 2018
IN
CRL A (MD) No.22 of 2018
Date :24/01/2018