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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Tuesday, the Third day of April Two Thousand Eighteen
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.430 of 2018
IN CRL A(MD) No.89 of 2017

DURAISAMY ... PETITIONER/APPELLANT

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
SIRUGANUR POLICE STATION,
THIRUCHIRAPPALLI DISTRICT
(CRIME NO.116/2016) ... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner the Sessions Judge (Mahila Court) Thiruchirappalli in S.C.No. 15 of 2016 dated 13.02.2017 and release 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.T.SENTHIL KUMAR, Advocate for the petitioner and of MR.K.SUYMABULINGA BHARATHI, Government Advocate(Crl.side) on behalf of the Respondents the court made the following order:-

The petitioner/appellant is the accused in S.C.No.15 of 2016 on the file of the learned Sessions Judge, Mahila Court, Thiruchirappalli. He was convicted for the offence under Sections 3 (a), 3(b), 3(d) read with Section 4 of Protection of Children from Sexual Offences Act, 2012 and was sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.10,000/-, and in default to undergo simple imprisonment for one year. Challenging the said conviction and sentence imposed, the petitioner has come up with this appeal. Pending appeal, he seeks suspension of the substantive sentence of imprisonment imposed on him.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondent and perused the records carefully.

3.On the side of the petitioner, it is stated that the petitioner is 85 years old man, partly deaf and dumb and even at the trial stage, he was not able to walk and was carried by two persons to the court. It is further stated that the victim used to commit theft and she was sent to Asramam and only with an election motive,

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the child was made to give evidence against the accused and pray for the suspension of sentence.

4.On the side of the prosecution, it is stated that this is the second petition and the victim is only 9 years old and there is no necessity for her to give evidence against the accused. It is further stated that the accused is only eight years old and 164 statement was recorded by the Judicial Magistrate which reveals the occurrence clearly and the evidence of P.W.1 was corroborated by P.W.8 who is the teacher.

5.The accused is in custody for the past 1½ years and he is more than 81 years old. Though the offence is grave in nature, the age and physical conditions of the accused is to be considered.

6.Under such circumstances, this Court is inclined to suspend the sentence of imprisonment imposed on the petitioner pending appeal. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner is suspended and the petitioner is directed to be enlarged on bail, on the following conditions:

The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, (Mahila Court), Trichy and on further condition that the petitioner shall report before the respondent police at 10.30 a.m., once in a week until further orders.

sd/-
03/04/2018

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

TO
1 THE SESSIONS JUDGE
MAHILA COURT, TIRUCHIRAPPALLI
2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY
3 THE INSPECTOR OF POLICE
SIRUGANUR POLICE STATION, THIRUCHIRAPPALLI DISTRICT
4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. C.C. to M/S.T.SENTHIL KUMAR Advocate SR.No.5321

ORDER IN
CRL MP(MD) No.430 of 2018
IN CRL A(MD) No.89 of 2017
Date :03/04/2018

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