



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

Thursday, the Thirteenth day of December Two Thousand Eighteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL MP(MD) No.6203 of 2018

IN

CRL A(MD) No.346 of 2018

KANAVAI BEER OLI

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE THROUGH

THE INSPECTOR OF POLICE

THENI POLICE STATION,

THENI DISTRICT,

(IN CRIME NO. 495 OF 1985)

... RESPONDENT/RESPONDENT/COMPLAINANT

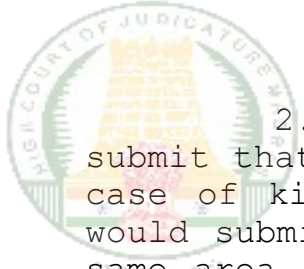
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed against me in Spl.S.C.No.38/2015 on the file of the Honourable Fast Track Mahila Court, Theni dated 24/04/2018 and release me on bail till the disposal of the above main appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.S.POORNACHANDRAN FOR M/S.P.RAJESWARI, Advocate for the petitioner and of MR.R.ANANDHA RAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner is arrayed as the sole accused in S.C.No.38 of 2015 on the file of the Fast Track Mahila Court, Theni, and under judgment, dated 24.04.2018, he has been convicted for offence Section 363 of IPC and under Section 4 of the Protection Of Children From Sexual Offences Act, 2012 and sentenced as follows:

Offences	Sentence
Under Section 363 of IPC	One year R.I. and fine of Rs.1,000/- i/d 3 months R.I.
Section 4 of POCSO Act, 2012	7 years R.I. and fine of Rs.1,000/- i/d 6 months R.I.

<https://hcservices.ecourts.gov.in/hcservices/>
The petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.

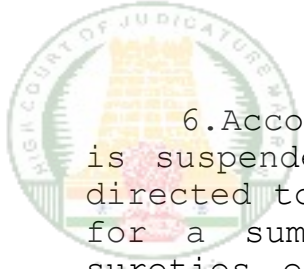


2.The learned counsel for the petitioner/appellant would submit that the case of love affair has been falsely projected as a case of kidnapping and offences under Section 4 of POCSO Act. He would submit that the petitioner and the victim girl belong to the same area and same community and known to each other and they were in love with each other. The learned counsel would further submit the parents of the victim girl and her relatives were against the love affair and since they put pressure on her, the victim girl had compelled the petitioner to take her along with him and had compelled him that or else she would commit suicide and accordingly, the petitioner had taken her and other than that the petitioner had not committed any offence as alleged. He would submit that the petitioner and the victim girl went away on 19.12.2014 and the complaint was preferred on the same day by the mother of the victim and based on the complaint, the petitioner's parents were also taken into police custody and after coming to know the said fact, the petitioner along with the victim surrendered before the police on the very next day. He would submit that even in the statement given by the victim to the Child Protection Officer, there is no allegation that the petitioner has committed any penetrative assault on the petitioner. He would also submit that during her evidence before the Court, P.W.2 the victim had stated that she had only called the petitioner saying that if he does not come and take her, she will commit suicide and thereby she had voluntarily gone along with the petitioner. She had further stated that if she was a major on that day, she would have married the petitioner and thereafter only, due to pressure of her parents, she has not married the petitioner, though she had attained the majority. She had also stated that the petitioner had not threatened her or compelled her to come along with him. Further, even in the chief examination of the Child Protection Officer, she had stated that when she had enquired the victim/P.W.2, she had informed her that the petitioner had touched her in her hands, legs and face, other than that, the victim had not stated anything to the Child Protection Officer, with regard to any penetrative assault.

3.The learned counsel for the petitioner would submit that the appeal has been filed during the month of July, 2018 and that it will take some time for final hearing. He would submit that the petitioner was on bail during trial and that he has not misused the liberty granted to him.

4.The learned Additional Public Prosecutor oppose for grant of bail stating that the petitioner has kidnapped the girl and committed offence under POCSO Act.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the impugned judgment of conviction and gone through the deposition of P.Ws.12, 15 and 17. This Court is of the considered view that the petitioner herein is entitled to the relief of suspension of sentence.



6. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he executes a bond for a sum of Rs.5,000/- (Rupees Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Theni and on further condition that 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.

7. Accordingly, this petition is ordered.

sd/-
13/12/2018

/ TRUE COPY /

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

TO

1. THE JUDGE,
FAST TRACK MAHILA COURT, THENI.
 2. THE JUDICIAL MAGISTRATE, THENI.
 3. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
 4. THE INSPECTOR OF POLICE,
THENI POLICE STATION,
THENI DISTRICT.
 5. THE SUPERINTENDENT,
MADURAI CENTRAL PRISON, MADURAI.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.P. RAJESWARI Advocate SR.No.23317

ORDER
IN
CRL MP (MD) No.6203 of 2018
IN
CRL A (MD) No.346 of 2018
Date : 13/12/2018