

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.1058 of 2019

IN CRL A.53/2019

R.PERUMAL

[PETITIONER / APPELLANT
ACCUSED]

Vs

STATE REP BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KRISHNAGIRI,
KRISHNAGIRI DISTRICT.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.53/2019 on the file of the High Court, the High Court will be pleased to suspension the sentence imposed upon him by the Learned Session Judge, Mahila Fast Track Court, Krishnagiri, Krishnagiri District in Spl.SC.No.54 of 2016 dated.20.11.2018 U/S.450 of IPC, sentencing to 5 years Rigorous Imprisonment & Rs.12,000/-fine i/d 6 months Rigorous imprisonment and U/s 5(L)r/w 6 of POSCO Act of 2012 sentencing to 15 years R.I. & Rs.15,000/- fine i/d 1 year R.I. and enlarge the petitioner on bail CRL.A.NO.53 OF 2019 [IN CRL.MP.NO.1058 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.53/2019 on the file of the High Court and upon hearing the arguments of M/S.M.P.SARAVANAN, Advocate for the petitioner and of MRS.V.SARATHADEVI Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The petitioner/appellant is the sole accused in Spl.S.C.No.54 of 2016, on the file of the Sessions Court, Mahila Fast Track Court, Krishnagiri. By judgment dated 12.08.2015, the trial Court has convicted the appellant for offence under Section 450 of the Indian Penal Code and Section 5(1) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for brevity) and sentenced to undergo Rigorous Imprisonment for 5 years under Section 450 of the Indian Penal Code and also imposed with a fine of Rs.12,000/- for the said offence and sentenced to undergo Rigorous Imprisonment for 15 years under the POCSO Act, and also imposed with

a fine of Rs.27,000/-, with usual default clause. Challenging the said conviction and sentence, the petitioner seeks for suspension of sentence.

2.The learned counsel for the petitioner/appellant submitted that the petitioner has not committed any offence and he has been falsely implicated in this case. He would further submit that the vital and material witnesses in this case, viz., P.W1 (mother of the victim and defacto complainant), P.W.2(victim girl) and P.W.3(father of the victim) have not supported the case of the prosecution and they disown their earlier version. Most of the Prosecution Witnesses have turned hostile. The version of the prosecution has not been corroborated by the medical certificate issued by the Doctor, who examined the victim. The entire case as projected by the prosecution is not correct. Therefore, the learned counsel would pray for suspending the sentence and enlarging the petitioner on bail.

3.The learned Government Advocate would submit that there are clinching materials in support of the prosecution case and on the basis of the said materials, the lower Court has passed the impugned order, imposing fifteen years Rigorous Imprisonment on the petitioner/accused. She would further submit that the petitioner has been charged with for his committing a grave offence under the provisions of of the POCSO Act, apart from the offence under the provisions of Indian Penal Code. The petitioner/accused raped the victim girl and took photograph of the occurrence and therefore, the petitioner, who committed such a serious offence is not entitled to be released on bail. Accordingly, she prays for dismissal of the petition.

4.On going through the entire papers and taking into consideration the submissions made by the learned Government Advocate and the nature of offence, committed by the petitioner/accused, this Court is not inclined to suspend the sentence. Accordingly, this petition is dismissed.

-sd/-
25/01/2019

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 SESSIONS JUDGE,
MAHILA FAST TRACK COURT,
KRISHNAGIRI, KRISHNAGIRI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KRISHNAGIRI,
KRISHNAGIRI DISTRICT.

+1C.C. to M/S.M.P.SARAVANAN Advocate on payment of necessary
charges SR NO.1611

Order

in
CRL MP.1058/2019

in
CRL A.53/2019

Date :25/01/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MK:28/01/2019

सत्यमेव जयते

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