

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the First day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.9517 of 2019

IN CRL A.95/2018

ELUMALAI

[PETITIONER/APELLANT/ACCUSED]

Vs

THE STATE

[RESPONDENT/COMPLAINANT]

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AMMAPET, SALEM CITY.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed by the Learned Sessions Judge, Mahila Court, Salem in S.C.No.36/2014 by the Judgment dated 19.01.2018 pending disposal of above Crl.A.No.95 of 2018 and enlarge him on bail pass such further or other order.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.UDAYASHANKAR U.G., Advocate for the petitioner, and of MR.G.RAMAR GOVERNMENT ADVOCATE, on behalf of the Respondent, the court made the following order:-

This petition is filed seeking to suspend the sentence imposed on the petitioner, by judgment and order dated 19.01.2018 passed in S.C.No.36 of 2014 on the file of the Sessions Court (Mahila Court), Salem.

2. The petitioner, who was an accused S.C.No.36 of 2014 before the Sessions Court (Mahila Court), Salem, was convicted under Sections 366, 376(1) and 506(I) IPC and sentenced to undergo various terms of imprisonment, the maximum being seven years rigorous imprisonment.

3. Challenging the conviction and sentence, the petitioner has filed the above appeal and is seeking suspension of sentence and bail. This is a second petition suspension of sentence and bail and

the earlier petition in CrI.M.P.No.2253 of 2018 had been withdrawn on 20.02.2019.

4. Heard Mr.U.G.Udayashankar, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (CrI. Side) for the respondent/State.

5. It is seen that the alleged incident had taken place on 08.10.2012 and the complaint was lodged only on 28.10.2012. The accused has examined the Headmaster of the school, in which the victim the girl was studying, as DW1 in order to prove that the victim girl was in class on the alleged date and time of the incident.

6. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Moreover, the petitioner has been in incarceration from the date of the judgment, viz., 19.01.2018. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. Accordingly, the relief of suspension of sentence and bail is granted on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate, Additional Mahila Court, Salem.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Judicial Magistrate, Additional Mahila Court, Salem, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

-sd/-
01/08/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE SESSIONS JUDGE
MAHILA COURT, SALEM.

2 THE JUDICIAL MAGISTRATE,
ADDITIONAL MAHILA COURT,
SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AMMAPET, SALEM CITY.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.UDAYASHANKAR U.G. Advocate on payment of
necessary charges SR.NO.15981

Order

in
CRL MP.9517/2019

in
CRL A.95/2018

Date :01/08/2019

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TA-06/08/2019

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