

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.10855 of 2019

IN CRL.A.NO.492/2019

YOGANATHAN

[PETITIONER]

vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
GOBICHETTIPALAYAM,
ERODE DISTRICT,
CRIME NO.3 OF 2017.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.492/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgment dated 08.07.2019 made in Spl.S.C.No.7 of 2018 on the file of the Sessions, Mahalir Neethimandram (Fast Track Mahila Court), Erode and enlarge the petitioner on bail pending disposal of the above criminal appeal No.492/2019.[CRL.MP.NO.10855/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.492/2019 on the file of the High Court and upon hearing the arguments of M/S. GURUPRASAD M. Advocate for the petitioner and of Additional public prosecutor on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/Accused, seeking suspension of sentence of imprisonment imposed by the judgement dated 08.07.2019 in Spl.S.C.No.7 of 2018 by the learned Sessions, Mahalir Neethimandram (Fast Track Mahila Court), Erode and enlarge him on bail pending disposal of the appeal.

2. This Court heard the learned counsel on either side and also perused the materials placed on record.

3. In and by the impugned judgement, the petitioner/Accused was convicted for the offences under Sections 366 of IPC, Section 6 of Protection of Children from sexual offences Act 2012 and 506(i) of IPC and was sentenced as under:

<https://hcservices.ecourts.gov.in/hcservices/>

S.No	Conviction	Punishment
1.	Under Section 366 of IPC, Section 6 of POCSO Act 2012	to undergo 12 years of rigorous imprisonment and to pay a fine of Rs.1,000/- and in default to undergo 3 months simple imprisonment .
2.	Under Section 506 (i) of IPC	to undergo one year of rigorous imprisonment and to pay a fine of Rs.500/- and in default to undergo one month simple imprisonment.t

4 .Both the punishment awarded in respect of Section 366 of IPC, Section 6 of POCSO Act 2012 and 506 (i) of IPC have been ordered to run concurrently. Aggrieved against the same, the petitioner has preferred this present appeal. Pending disposal of the appeal, the present Miscellaneous Petition has been filed to suspend the sentence.

5. The learned counsel for the petitioner would submit that a case of love affair and elopement has been falsely projected as a case of abduction and the trial court had erred in convicting the petitioner. The evidence of the victim girl is contradictory in nature and does not inspire confidence. He would submit that immediately after being secured, the victim was produced before the Judicial Magistrate and her statement was recorded under section 164 of Cr.P.C. During such examination, the victim girl has stated that on her insistence only, the petitioner had taken her. As per her statement, it is evident that she voluntarily left her home and came to the bus stand with an intention not to go back home and she had insisted the petitioner to take her somewhere whereas, the petitioner had insisted her to go back her home and told her that he would drop her at home and if there will be any problem, she could come along with the petitioner. However, contrary to her statement recorded under Section 164 of Cr.P.C, she had deposed against the petitioner before the trial Court on being threatened and tutored by her parents. He would submit that it transpires that there was an affair between the victim and the petitioner without understanding the consequences, had voluntarily proceeded to help the victim and is now suffering incarceration.

6. The learned Additional Public Prosecutor would submit that during her examination in Court, the victim had clarified that the statement given by her under section 164 Cr.P.C. was on the compulsion of the parents of the petitioner . He would oppose grant of bail.

7. Taking into consideration the facts of the case and the submissions made by the learned counsel on either side and that the petitioner having been confined at Central Jail, Coimbatore from 08.07.2019 and also taking into consideration the age of the petitioner, this Court is of the view that the substantive sentence of imprisonment alone can be suspended and the petitioner be released on bail subject to certain conditions. Accordingly, till the disposal

of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner/ accused is ordered to be enlarged on bail, on the following conditions:-

- a) The Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, either one of the parent, each for a like sum to the satisfaction of the learned Sessions, Mahalir Neethimandram (Fast Track Mahila Court), Erode.
- b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.
- c) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, 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 of Cr.PC. 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/-

23/10/2019

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 MAHALIR
NEETHIMANDRAM[FAST TRCK MAHAIL COURT,
ERODE

2 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
GOBICHETTIPALAYAM,
ERODE DISTRICT,

+1 C.C. to M/S. GURUPRASAD M. Advocate on payment of necessary
charges SR.NO.21909

Order

in

CRL MP.10855/2019

IN CRL.A.NO.492/2019

Date :23/10/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 23/10/2019



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