

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Seventh day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.11565 of 2019

in CRL.A.No.524 of 2019

RAJKUMAR

[PETITIONER/APELLANT]

Vs

STATE REP BY

[RESPONDENT/COMPLAINANT]

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHEYYAR,
THIRUVANNAMALAI DISTRICT.
(CR.NO.13/2015)

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 upon the petitioner by the Fast Track Mahila Judge, Tiruvannamalai made in Spl.S.C.No.30/2016 by a Judgment dated 01.08.2019 and release him on bail pending disposal of above Crl.A.NO.524 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M.R.THANGAVEL, Advocate for the petitioner, and of MR. M.MOHAMED RIYAZ, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated, 01.08.2019, made in Spl.SC.No.30 of 2016, by the Fast Track Mahila Court, Tiruvannamalai and release him on bail, pending disposal of the Criminal Appeal.
- 2.This court heard the learned counsel on either side.
- 3.The Petitioner/ accused was charge sheeted for the offence under Sections 376 and 354 of IPC and Sections 4 and 8 of the POSCO Act, alleging that the Petitioner/ accused, with an intention to commit rape in order to fulfil his sexual desire, had entered into the house of the victim minor girl, two months prior to 15.10.2015 and had forcibly had sexual intercourse with the victim without her consent and thereby, the Petitioner/ accused had committed offences of rape, penetrative sexual assault and outraging the modesty of

victim minor girl.

4. In and by the impugned judgement, the Petitioner/ accused was convicted and sentenced for the offence under Section 4 of the POSCO Act, to undergo seven years Simple Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months Simple Imprisonment and for the offence under Section 8 of the POSCO Act, to undergo three years Simple Imprisonment and to pay a fine of Rs.,000/-, in default, to undergo three months Simple Imprisonment.
5. The learned counsel for the Petitioner/Accused would submit that the Petitioner and the defacto complainant are close relatives and since there was enmity between their families in respect of a family property, a false case has been foisted against him. He would further submit that even according to the statement of the victim given under Section 164 of Cr.PC, and her evidence before the Court, she has allowed the Petitioner/Accused to have physical relationship with her and that, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the Petitioner/ accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence of imprisonment imposed against the Petitioner/Accused may be suspended.
6. The Respondent has filed a counter, raising objections for suspending the sentence of imprisonment. The Learned Additional Public Prosecutor would submit that the victim was aged 17 years at the time of occurrence and that the Petitioner had sexual intercourse with her and later had refused to marry her.
7. I have carefully perused the materials placed on record and gone through the statement of the victim recorded under Section 164 of Cr.PC and her evidence before the Court.
8. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on 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:-
 - i. The Petitioner/ accused shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate, Cheyyar.

The Petitioner/accused shall report before the Trial Court, namely, Fast Track Mahila Court, Tiruvannamalai, on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

27/09/2019

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

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Sub-Assistant Registrar (Statistics/C.S.)

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High Court, Madras - 600 104.

TO

1 THE FAST TRACK MAHILA JUDGE,
THIRUVANNAMALAI.

2 THE JUDICIAL MAGISTRATE,
CHEYYAR. THIRUVANNAMALAI.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHEYYAR,
THIRUVANNAMALAI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 C.C. to M.R.THANGAVEL Advocate on payment of necessary
charges SR.NO.20233

Order

in

CRL MP.11565/2019

in

CRL.A.No.524/2019

Date :27/09/2019

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TA-30/09/2019

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