

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION NO.16152 OF 2019

IN CRL.A.NO.757 OF 2019

P.GANESAN

[PETITIONER / APPELLANT / ACCUSED]

Vs

STATE REPRESENTED BY [RESPONDENT]
THE INSPECTOR OF POLICE,
W-27 ALL WOMEN POLICE STATION,
VADAPALANI,
CHENNAI-600 093
(CRIME NO.10/2018)..

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.757 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed in judgement in S.C.No.343/2018 dated 5.11.2019 by the learned Sessions Judge, Mahila Court, Chennai and enlarge the petitioner on bail pending disposal of the CRL.A.NO.757 OF 2019 [IN CRL.MP.NO.16152 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.757 OF 2019 on the file of the High Court and upon hearing the arguments of M/S. R.VIVEKANANTHAN, Advocate for the petitioner and of MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petitioner faced trial in S.C.No.343 of 2018 on the file of learned Sessions Judge, Mahila Court, Chennai. Under judgment dated 05.11.2019, the trial Court found the petitioner guilty under Sections 10 and 12 of the POCSO Act, 2012 and sentenced him to undergo Simple imprisonment for a period of five years and to pay a fine of Rs.3,000/-, in default, to undergo simple imprisonment for a further period of six months, for the offence under Section 10 of the said Act and also sentenced to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for the further period of one month, for the offence under Section 12 of the said Act. Aggrieved over the same, the petitioner has filed this Criminal Appeal along with the petition seeking suspension of sentence.

2. It is submitted by the learned counsel for the petitioner/accused that the amount of fine had already been paid, as directed by the trial Court in its judgment. He further submitted that there are several infirmities and inconsistencies in the prosecution case and there are also contradictions in material particulars in the evidence of the prosecution. He also submitted that there are arguable points available in this Criminal Appeal, which is not likely to be taken up for final hearing in the near future and hence, the substantive sentence imposed against the petitioner may be suspended.

3. Heard learned Additional Public Prosecutor on the submissions made by the learned counsel for petitioner.

4. Considering the facts and circumstances of the case and taking into account the submissions made by the learned counsel on either side, this Court is of the view that the petitioner herein can be granted the relief of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner herein is directed to be enlarged on bail on the following conditions:-

a) The Petitioner/Accused is directed to 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 learned Sessions Judge, Mahila Court, Chennai;

b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Sessions Judge may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

c) The Petitioner/ Accused shall appear before the Trial Court at 10.30 a.m., everyday, until the disposal of the Appeal and if he is not able to appear before the Trial Court on any day, due to unavoidable circumstances, 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 his absence, as directed by the Trial Court. Such an application shall not be entertained often.

-sd/-

20/12/2019

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 COURT, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-27 ALL WOMEN POLICE STATION,
VADAPALANI,
CHENNAI-600 093.

+1C.C. to M/S. R.VIVEKANANTHAN Advocate on payment of
necessary charges SR NO.26327

Order

in

CRL MP.16152/2019

in

CRL.A.757/2019

Date :20/12/2019

From 7.2.2001 the Registry is issuing certified
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