



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Fourteenth day of March Two Thousand Nineteen
PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

WEB COPY

CRL MP(MD) No.10415 of 2018
IN CRL A(MD) No.265 of 2018

CHELLAPANDI

... PETITIONER/ APPELLANT/
ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
USILAMPATTI, MADURAI DISTRICT.
CRIME NO.62/2015

...RESPONDENT/ RESPONDENT/
COMPLAINANT

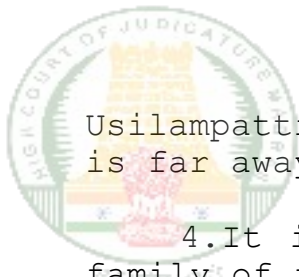
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass an Interim Order pending disposal of the Criminal Appeal, Suspending the execution of sentence u/s.9(m) and 10 of Protection of Children from Sexual Offences Act, 2012 awarded on the petitioner vide the Judgment dated 15/05/2018, passed by the Learned Mahalir Neethimandram, (Mahila Court) Madurai in Spl.S.C.No.39 of 2016, and thereby to release him on bail to the satisfaction of the said Learned Trial Court.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.T.K.GOPALAN, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the court made the following order:-

This Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the District Mahila Neethimandram, Madurai, in Spl.S.C.No.39 of 2016, dated 15.05.2018 pending disposal of the criminal appeal.

2.The learned counsel for the petitioner submitted that petitioner was convicted by the trial Court and sentenced him to undergo five years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo one year simple imprisonment.

3.The learned counsel for the petitioner further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and that the victim and her grandfather met with an accident and they took treatment at



Usilampatti, but the occurrence had took place at Ammapatti, which is far away from Usilampatti.

4.It is further submitted that there is an enmity between the family of the victim and the petitioner and due to which, this false case has been foisted against the petitioner and that PW1 has deposed that the Police has tape-recorded her statement, however, no tape-recorded statement was filed by the police. It is also submitted that the petitioner is in jail for the past ten months and he is the only bread winner of his family and that there are arguable points in the main appeal. In view of the above circumstances, the petitioner seeks the relief of suspension of sentence till the disposal of the appeal.

5.It is submitted by the learned Government Advocate (Criminal side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and prays for dismissal of this petition.

6.This court has carefully considered the rival contentions put forward by their side and also perused the materials available on record.

7.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that the petitioner is in jail for the past ten months and there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

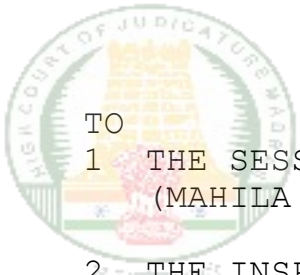
8.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Mahalir Neethimandram (Mahila Court), Madurai and on further condition that the petitioner shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm pending appeal.

sd/-

14/03/2019

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Sub-Assistant Registrar (C.S-I)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE SESSIONS JUDGE, MAHALIR NEETHIMANDRAM
(MAHILA COURT), MADURAI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
USILAMPATTI, MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to MR.P.THAMBIDURAI, Advocate SR.No.4838

ORDER

IN

CRL MP (MD) No.10415 of 2018

IN

CRL A (MD) No.265 of 2018

Date :14/03/2019

MS/VR/SAR-1/14.03.2019/3P.6C