



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

Thursday, the Fourteenth day of March Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP (MD) No.10563 of 2018

IN

CRL A (MD) No.490 of 2017

VAIRAM

... PETITIONER / APPELLANT

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
TIRUVERMBUR ALL WOMEN POLICE STATION,
THIRUCHIRAPPALLI DISTRICT.
IN CRIME NO. 7 OF 2016

... RESPONDENT / COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner the Sessions Judge (Mahila Court) Thiruchirappalli in S.S.C.No. 20/2016 dated 27.11.2017 and release the petitioner on bail pending disposal of the above Criminal Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.T.SENTHIL KUMAR, 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 Sessions Judge (Mahila Court), Thiruchirappali, in S.S.C.No.20 of 2016, dated 27.11.2017 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 ten years RI and to pay a fine of Rs.1,000/-, in default to undergo one year SI under Section 5(1) r/w 6 of the Protection of Children from Sexual Offences Act, 2012 and for the offence under Section 5(n) r/w 6 of Protection of Children from Sexual Offences Act, 2012, sentenced to ten years RI and to pay a fine of Rs.1,000/-, in default to undergo one year SI and for the offence under Section 5(j)(ii) r/w 6 of Protection of Children from Sexual Offences Act, 2012, sentenced to ten years RI and to pay a fine of Rs.1,000/-, in default to undergo one year SI and for the offence



under Section 506(i) IPC, sentenced to undergo one year RI and to pay a fine of Rs.500/-, in default to undergo Six months 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 prosecution has not proved the place of occurrence and erred in convicting the petitioner without any substantial evidence. It is also submitted that the petitioner is in jail since 27.11.2017 and he is the only breadwinner 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.

4. 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.

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

6. 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 15 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.

7. 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, Mahila Court, Tiruchirappalli 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

/ TRUE COPY /



TO

1 THE SESSIONS JUDGE,
MAHILA COURT, TIRUCHIRAPPALLI.

2 THE INSPECTOR OF POLICE,
TIRUVERMBUR ALL WOMEN POLICE STATION,
THIRUCHIRAPPALLI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.T.SENTHIL KUMAR, Advocate SR-4866

ORDER
IN
CRL MP (MD) No.10563 of 2018
IN
CRL A (MD) No.490 of 2017
Date :14/03/2019

JM/VR/SAR 1/14.03.2019/3P/6C