

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Sixth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.672 of 2020

IN CRL.A.No.436 OF 2019

VENGATESHWARAN

[PETITIONER]

Vs

THE STATE REP. BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ATTUR, SALEM.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.436 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgemtn dated 11.06.2019 made in S.C.No. 133/2015 on the file of the Mahila Court, Salem and enlarge the petitioner on bail pending disposal of the above Criminal Appeal No. 436/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.436 of 2019 on the file of the High Court and upon hearing the arguments of M/S. A.SWAMINATHAN, 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.133 of 2015 on the file of learned Sessions Judge, Mahila Court, Salem. Under judgment dated 11.06.2019, the trial Court found the petitioner guilty under Sections 417, 376 and 313 IPC and sentenced the petitioner / appellant / accused for the offences as tabulated here under:-

Convicted of the Offence	Sentenced
Under Section 417 IPC	To undergo one year Rigorous Imprisonment (R.I.) and to pay a fine of Rs.1,000/-, in default to undergo imprisonment for 1 month.
Under Section 376 IPC	To undergo R.I. for seventeen years and to pay a fine of Rs.50,000/- in default to undergo simple imprisonment for six months.

Convicted of the Offence	Sentenced
Under Section 313 IPC	To undergo R.I. for three years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for three months.

2. The sentences were ordered to run concurrently. Aggrieved over the same, the petitioner/appellant has filed this Criminal Appeal along with the petition seeking suspension of sentence.

3. The learned counsel for the petitioner/accused submitted that the amount of fine had already been paid, as directed by the trial Court in its judgment. He also submitted that the petitioner has paid a sum of Rs.1,50,000/- before the trial court, as per the conditional order of this Court dated 17.02.2020. He has also produced receipts before this Court to that effect. 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.

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

5. 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. 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 trial court shall redeposit the amount of Rs.1,50,000/- deposited by the petitioner, in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Appeal.
- b) 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, Salem;
- c) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Judge may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

d) The Petitioner / Accused shall appear before the Trial Court on the first working day of every month at 10.30 a.m., 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.P.C. 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/-

26/02/2020

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, SALEM

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ATTUR, SALEM.

C.C. to M/S. A.SWAMINATHAN Advocate on payment of necessary charges

Order

in
CRL MP.672/2020

IN CRL.A.No.436 OF 2019

Date :26/02/2020

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RVR 26/02/2020