

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.09.2020

PRONOUNCED ON : 03.11.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.M.P.No.5480 of 2020
in
Crl.A.No.364 of 2020

Mohanavel

... Petitioner/Appellant

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Sankagiri,
Salem District.
(Crime No.21 of 2018)

... Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence made in judgment in New Spl.S.C.No.161 of 2019 (Old Spl.S.C.No.122 of 2018) dated 17.08.2020 by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Salem.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mrs.P.Kritika Kamal
Government Advocate
(Crl. Side)

ORDER

This case is taken up through video conferencing.

2. This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment dated 17.08.2020 passed in New Spl.S.C.No.161 of 2019 (Old Spl.S.C.No.122 of 2018) by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Salem.

3. The petitioner was convicted on 17.08.2020 in Spl.S.C.No.161 of 2019 (Old Spl.S.C.No.122 of 2019) by the Special Court for Exclusive Trial of cases under POCSO Act and was sentenced as follows :-

<i>Provisions under which convicted</i>	<i>Sentence</i>
Section 363 IPC	Three years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo one month simple imprisonment.
Section 366 IPC	Three years rigorous imprisonment and fine of Rs.10,000/-, in default to undergo three months simple imprisonment.
Section 11(iv) r/w 12 of POCSO Act	Three years rigorous imprisonment and fine of Rs.10,000/-, in default to undergo three months simple imprisonment.

The aforesaid sentences were ordered to run simultaneously.

4. Challenging the above convictions and sentences, the petitioner has filed Crl.A.No.364 of 2020 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.W.Camyles Gandhi, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) appearing for the respondent/State.

6. It is the case of the prosecution that the petitioner eloped with a victim girl, a minor, on 31.05.2018, but returned on 01.06.2018, as his relative did not give them accommodation. Both of them remained in the bus stand throughout the night. It is not the case of the prosecution that the victim girl was sexually assaulted by the petitioner.

7. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner has been in incarceration. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall 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 Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Salem;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court, may obtain a copy of their Aadhar card or bank pass book to ensure their identity; and
- (iii) The petitioner 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, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

03.11.2020

sni

To

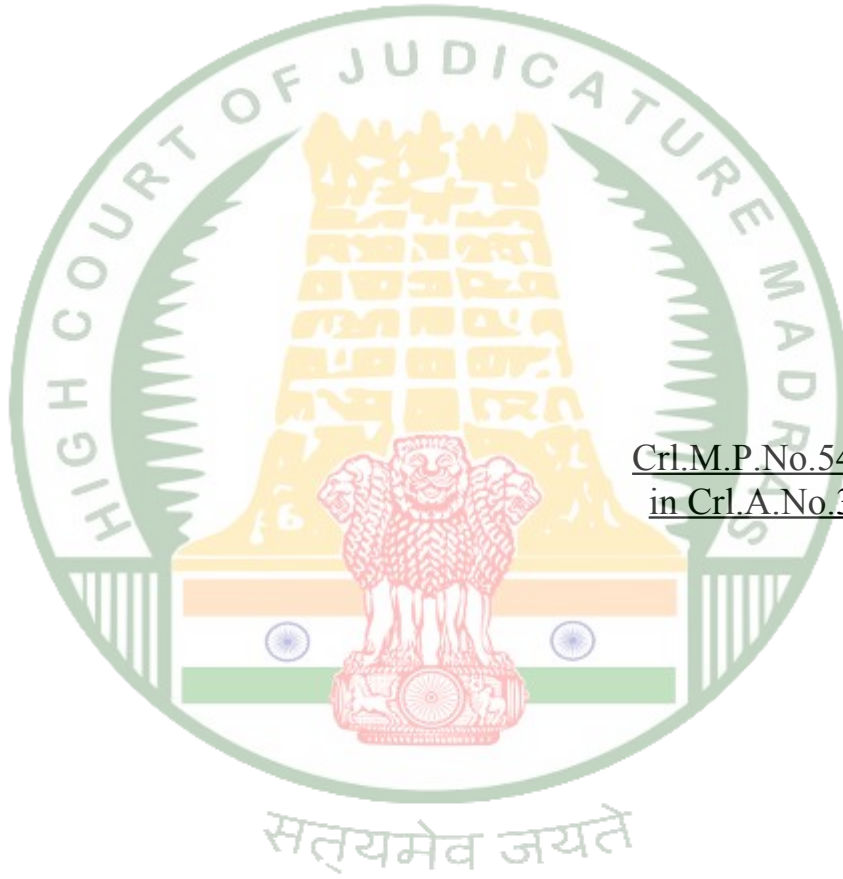
- 1.The Sessions Judge,
Special Court for Exclusive Trial of cases under POCSO Act,
Salem.
- 2.The Mahila Judge,
Magalir Neethimandram (Mahila Court),
Salem.
- 3.The Superintendent of Prison,
Central Prison,
Salem.
- 4.The Inspector of Police,
All Women Police Station,
Sankagiri,
Salem District.
5. The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



WEB COPY

P.N.PRAKASH, J.

sni



Crl.M.P.No.5480 of 2020
in Crl.A.No.364 of 2020

WEB COPY

03.11.2020