

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.M.P.No.14155 of 2019

in Cr1.A.No.667 of 2019

T.Siva,
S/o.Thangaraj,
Pottulupatti, Usilampatti Taluk,
Madurai District. ... Petitioner/Accused

Vs.

1.State represented by
The Assistant Commissioner
of Police,
Tiruppur South,
All Women Police Station,
Tiruppur, Tiruppur District.

2.The Inspector of Police,
All Women Police Station,
Tiruppur South,
Tiruppur District.
(Crime No.8 of 2018) ...Respondents/ Complainant

Criminal Miscellaneous Petition filed under Section 389(1)
Cr.P.C. to suspend the sentence imposed on the petitioner by judgment
and order dated 28.03.2019 passed in Spl.S.C.No.35 of 2018 on the
file of the Sessions Court (Fast Track Mahila Court), Tiruppur and to
enlarge the petitioner on bail till the disposal of the appeal.

For Petitioner : Mr.S.P.Meenakshi Sundharam

For Respondents : Mr.K.Madhan
Government Advocate (Cr1. Side)

O R D E R

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
and order dated 28.03.2019 passed in Spl.S.C.No.35 of 2018 on the
file of the Sessions Court (Fast Track Mahila Court), Tiruppur and to
enlarge the petitioner on bail till the disposal of the appeal.

3. The petitioner, who was an accused in Spl.S.C.No.35 of 2018 before the Sessions Court (Fast Track Mahila Court), Tiruppur, was convicted of the offences under Section 9(m) r/w 10 of the Protection of Children from Sexual Offences Act, 2012 (for brevity "the POCSO Act") and Section 3(1)(w)(i) r/w 3(2)(va) the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity "the SC/ST Act") and sentenced as follows:

S.No.	Provision under which convicted	Sentence
1	Section 9(m) r/w 10 of the POCSO Act	Five years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo one year rigorous imprisonment.
2	Section 3(1)(w)(i) r/w 3(2)(va) of the SC/ST Act	Five years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo one year rigorous imprisonment.

4. Challenging the above conviction and sentences, the petitioner has filed CrI.A.No.667 of 2019 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.S.P.Meenakshi Sundharam, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (CrI.Side) for the respondents/State.

6. It is the case of the prosecution that on 04.06.2018, around 7.40 a.m., when the victim girl "X" (PW1) (name not disclosed for the sake of anonymity) had gone to attend the nature's call, the petitioner is said to have hugged her from behind, which was seen by the grandmother of "X".

7. It is not the case of the prosecution that the petitioner had ravished "X" (PW1) or had penetrative sexual assault.

8. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Moreover the petitioner has been in incarceration from 28.03.2019. 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.

9. 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 Court (Fast Track Mahila Court), Tiruppur;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge (Fast Track Mahila Court), Tiruppur, 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.

-sd/-

05/08/2020

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
FAST TRACK MAHILA COURT [TIRUPPUR]

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE ASSISTANT COMMISSIONER OF POLICE,
TIRUPPUR SOUTH, ALL WOMEN POLICE STATION,
TIRUPPUR, TIRUPPUR DISTRICT.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUPPUR SOUTH, TIRUPPUR DISTRICT,

C.C. to M/S.S.P.MEENAKSHI SUNDHARAM Advocate on payment of
necessary charges

Order

in
CRL MP.14155/2019

in
CRL A.910/2019

Date :05/08/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 07/08/2020



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