

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Eighth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.14232 of 2019

IN CRL.A.No.671 of 2019

PARTHIBAN

[PETITIONER]

Vs

STATE BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
W-24, ALL WOMEN POLICE STATION,
TEYNAMPET, CHENNAI.
CRIME NO.5/2015.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed on the Petitioner/Appellant by the Learned Special Court for Cases under POCSO Act 2012 /Mahila Court, Chennai, made in S.C.No.250 of 2016 dated 22/11/2018 and enlarge the petitioner on bail pending disposal of the above Crl.A.No.671 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.K.S.ARUMUGAM, 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.250 of 2016 on the file of learned Special Court for Cases under POCSO Act, Mahila Court, Chennai. Under judgment dated 22.11.2019, the trial Court found the petitioner guilty under Section 366 IPC and under Section 6 of the POCSO Act, 2012 and sentenced him to undergo Rigorous imprisonment for a period of five years and to pay a fine of Rs.5,000/-, in default, to undergo Rigorous Imprisonment for a further period of six months. Aggrieved over the same, the petitioner has filed this Criminal Appeal along with the petition seeking suspension of sentence.

2. It is submitted by the learned counsel for the petitioner/accused that the amount of fine had already been paid, as directed by the trial Court in its judgment. 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. He also submitted that the petitioner has been in incarceration for more than fourteen months.

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

4. 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.

5. 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 Petitioner/Accused is ordered to be released on bail, on his executing 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 Special Court for Cases under POCSO Act, Mahila Court, Chennai;
- b) 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
- c) 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.PC. 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.

d) On the failure of the Petitioner/Accused, in any of the above conditions, it is open to the Trial Court to commit the Petitioner / Accused into custody for undergoing the sentence.

-sd/-
28/01/2020

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 SPECIAL COURT FOR CASES UNDER POCSO ACT,
MAHILA COURT, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE INSPECTOR OF POLICE,
W-24, ALL WOMEN POLICE STATION,
TEYNAMPET,
CHENNAI.

+1 C.C. to M/S. K.S.ARUMUGAM Advocate on payment of necessary charges SR.NO.1564

Order

in

CRL MP.14232/2019

in

CRL.A.No.671/2019

Date :28/01/2020

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