

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Crl.M.P.No.14065 of 2019

in Crl.A.No.660 of 2019

Senthilkumar

...Petitioner

Vs.

State represented by

...Respondent

The Inspector of Police,
All women Police Station (North),
Tiruppur.
(Crime No.1 of 2019)

Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment and order dated 26.07.2019 passed in Special S.C.No.13 of 2019 on the file of the Magalir Neethi Mandram (Fast Track Mahila Court), Tiruppur and to enlarge him on bail, pending disposal of the appeal.

For Petitioner : Mr.K.S.Karthik Raja

For Respondent : Mr.K.Madhan
Government Advocate
(Crl.Side)

ORDER

This case is taken up through video conferencing.

2. This petition is filed seeking to suspend the sentence imposed on the petitioner, by judgment and order 26.07.2019 passed in Special S.C.No.13 of 2019 on the file of the Magalir Neethi Mandram (Fast Track Mahila Court), Tiruppur and to enlarge him on bail, pending disposal of the appeal.

3. The petitioner, who was an accused in Special S.C.No.13 of 2019 before the Magalir Neethi Mandram (Fast Track Mahila Court), Tiruppur, was convicted of the offence under Section 9 (m) r/w 10 of the Protection of Children from Sexual Offences Act, 2012 (for brevity "the POCSO Act") and sentenced as follows:

Provision under which convicted	Sentence
Section 9 (m) r/w 10 of the POCSO Act	Seven years rigorous imprisonment and fine of Rs.10,000/-, in default to undergo one year rigorous imprisonment.

4. Challenging the above conviction and sentence, the petitioner has filed Crl.A.No.660 of 2019 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.K.S.Karthik Raja, learned counsel for the petitioner and Mrs.K.Madhan, learned Government Advocate (Crl.Side) for the respondent/State.

6. The learned counsel for the petitioner submitted that the prosecution has failed to examine the father of the victim girl "X" (PW1) (name not divulged for the sake of anonymity) and the neighbours, who were material witnesses. He also submitted that the trial Court had failed to appreciate the evidence of the petitioner, who examined himself as DW1 and the staff (DW2) in the right perspective.

7. *Per contra*, the learned Government Advocate (Crl.Side) refuted the submissions made by the learned counsel for the petitioner.

8. This Court perused the evidence of "X" (PW1).

9. "X" (PW1) was nine years and the petitioner was thirty nine years when the incident took place on 23.02.2019. "X" (PW1), in her evidence, has stated that the petitioner was a neighbour and he called her into his house saying that he will give her chocolates; when she went inside, he made her perform oral sex.

10. This Court does not *prima facie* find any serious infirmity in the evidence of "X" (PW1) for grant of suspension of sentence and bail to the petitioner.

11. For the reasons aforesaid, this Court does not find any merit in this petition and consequently, the same stands dismissed. It is made clear that whatever is stated above is only for the limited purpose of deciding this petition for suspension of sentence and bail alone and cannot be pressed into service during final hearing of the appeal.

The Registry is directed to post the main appeal for final disposal immediately after physical appearance of Advocates before this Court is permitted.

-sd/-
04/08/2020

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 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (NORTH),
TIRUPPUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SESSIONS JUDGE,
MAGALIR NEETHI MANDRAM,
(FAST TRACK MAHILA COURT), TIRUPPUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S.K.S.KARTHIK RAJA Advocate on payment of necessary charges

Order

in
CRL MP.14065/2019

in
CRL A.660/2019

Date :04/08/2020

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