

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 18.08.2020

DELIVERED ON: 20.08.2020

CORAM :

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

Crl.M.P. No.15506 of 2019 in Crl.A. No.790 of 2018

Senthilkumar

Petitioner

vs.

State represented by
The Sub Inspector of Police
A. Pallipatty Police Station
Dharmapuri District
(Cr. No.112 of 2016)

Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C., seeking to suspend the sentence imposed on the petitioner on 30.10.2018 by the Sessions Judge (Fast Track Mahila Court), Dharmapuri in Special S.C. No.11 of 2017, and enlarge the petitioner on bail, pending final disposal of Crl.A. No.790 of 2018.

For petitioner Mr. K. Sakthivel

For respondent Mr. K. Madhan
Govt. Advocate (Crl. Side)

ORDER

This is a petition for suspension of sentence and bail.

2 It is the case of the prosecution that while the petitioner was working as a teacher in A. Pallipatti Middle School, he sexually abused four children and on the said allegation, he was prosecuted in Special S.C. No.11 of 2017 in the Sessions Court (Fast Track Mahila Court), Dharmapuri and was convicted and sentenced as follows:

Provision of law under which convicted	Sentence
Section 9(f) and (1) read with Section 10 of the POCSO Act (4 counts)	To undergo 5 years rigorous imprisonment for each of the 4 counts and pay a fine of Rs.5,000/- for each of the 4 counts, in default to undergo 6 months simple imprisonment for each of the 4 counts
Section 323 IPC	3 months simple imprisonment

3 Heard Mr. K. Sakthivel, learned counsel for the petitioner and K. Madhan, learned Government Advocate (Crl. Side) appearing for the respondent police.

4 Mr. Sakthivel, learned counsel, submitted that there are several contradictions in the evidence of the victim girls; the petitioner was not afforded adequate opportunity to adduce evidence from his side as there was boycott of Court by lawyers; the prosecution has not examined the Headmaster or the teachers of the school; all these aspects were not taken note of by the trial Court and in the light of such glaring infirmities in the case of the prosecution, the sentence imposed on the petitioner deserves to be suspended and the petitioner released on bail.

5 Per contra, the learned Government Advocate (Crl. Side) refuted the aforesaid contentions.

6 On gleaning through the judgment of the trial Court, it is seen that the petitioner was examined under Section 313 Cr.P.C. and he had not come forward to offer any plausible explanation for the incriminating circumstances appearing against him in the evidence. It is also seen that he has filed his written arguments in detail in the Court and the trial Court has considered each of his submissions thoroughly in the judgment.

7 Further, on a cursory perusal of the evidences of the victim girls, this Court does not find any serious contradictions in them. In fact, on the contrary, their evidences show that the petitioner had been subjecting the victim girls to "bad touch" for over a period of time until P.W.2 complained to her father, who, in turn, lodged a police complaint resulting in the prosecution of the petitioner. That apart, the victims girls have stated that the petitioner used to pinch them at inappropriate places.

8 In the light of such prima facie materials, the contention of the learned counsel for the petitioner that the petitioner was not afforded an opportunity to adduce defence witnesses and that had resulted in miscarriage of justice, cannot be determined in this miscellaneous application and it should have to be considered only during the final hearing of the appeal. Likewise, the contention of the learned counsel for the petitioner that the Headmaster and teachers of the school were not examined as witnesses also, will have to be considered only during the final hearing of the appeal.

9 Thus, taking into consideration the facts and circumstances of the case, this Court is of the view that this is not a fit case to suspend the sentence imposed on the petitioner and enlarge him on bail. However, it is made clear that whatever is observed in this order is only for the limited purpose of deciding this miscellaneous petition.

10 Accordingly, this criminal miscellaneous petition seeking suspension of sentence and bail is dismissed.

Since the paper book is ready, the Registry is directed to post Crl.A. No.790 of 2018 for final hearing immediately after resumption of physical hearing.

-sd/-
20/08/2020

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),
DHARMAPURI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB-INSPECTOR OF POLICE,
A.PALLIPATTY POLICE STATION,
DHARMAPURI DISTRICT.

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

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

Order

in
CRL MP.15506/2019

in
CRL A.790/2018

Date :20/08/2020

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

<https://hcservices.ecourts.gov.in/hcservices/>

CS 28/08/2020