

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2020

CORAM

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

Crl.M.P.No.18240 of 2019
in
Crl.A.No.462 of 2019

Thimmiah @ Karian

...Petitioner

Vs.

State represented by
The Inspector of Police,
All women Police Station,
Denkanikottai.

...Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment and order dated 30.10.2018 passed in Special S.C.No.227 of 2016 on the file of the Sessions Court (Fast Track Mahila Court), Krishnagiri and to enlarge him on bail, pending disposal of the appeal.

For Petitioner : Mr.M.D.Thirunavukkarasu

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 30.10.2018 passed in Special S.C.No.227 of 2016 on the file of the Sessions Court (Fast Track Mahila Court), Krishnagiri and to enlarge him on bail, pending disposal of the appeal.

3. The petitioner, who was an accused in S.C.No.227 of 2016 before the Sessions Court (Fast Track Mahila Court), Krishnagiri, was convicted of the offences under Sections 448 and 376 IPC and sentenced as follows:

S.No.	Provision under which convicted	Sentence
1	Section 448 IPC	Ten months rigorous imprisonment and fine of Rs.500/-, in default to undergo two months rigorous imprisonment.
2	Section 376 (1) IPC	Ten years rigorous imprisonment and fine of Rs.1,000/-, in default to undergo six months rigorous imprisonment.

4. Challenging the above conviction and sentences, the petitioner has filed Crl.A.No.462 of 2019 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.M.D.Thirunavukkarasu, learned counsel for the petitioner and Mrs.K.Madhan, learned Government Advocate (Crl.Side) for the respondent/State.

6. It is the case of the prosecution that the family of the victim girl "X" (name not divulged for the sake of anonymity), are migrant labourers from adjoining Karnataka State and were daily wagers; "X" suffered paralysis after schooling and was bedridden; on the fateful day, after dusk, taking advantage of the fact that none was at home, the petitioner is said to have entered the hut and ravished "X"; when her grandmother Dhimakka (PW2) entered the hut, the petitioner is said to have pushed her and fled; Dhimakka (PW2) raised hue and cry; when everyone assembled, they were shocked to find "X" naked. Thereafter, the complaint was lodged and a case in Crime No.29 of 2015 was registered.

7. After full fledged trial, the petitioner has been convicted and sentenced as above.

8. The learned counsel for the petitioner submitted that the petitioner's mother had died and prayed for interim suspension of sentence and bail on the ground that as an eldest son, the petitioner should have to perform the ceremonies.

9. *Per contra*, the learned Government Advocate (Crl.Side) submitted that the petitioner's mother had died way back in 12.03.2020 and his brother had performed all the ceremonies. He also submitted that the petitioner is also involved in a murder case.

10. Taking into consideration the gravity of the offence and the law laid down by the Supreme Court in **Sidhartha Vashisht Vs. State (NCT of Delhi)**¹, this Court is of the view that this is not a fit case to grant bail.

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.

-sd/-
29/07/2020

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), KRISHNAGIRI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
DENKANIKOTAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S.M.D.THIRUNAVUKKARASU Advocate on payment of
necessary charges

Order

in
CRL MP.18240/2019

in
CRL.A.No.462/2019

Date :29/07/2020

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copies of the BAIL/Anti.BAIL Orders in this format

TA-14/08/2020