



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twelfth day of May Two Thousand Twenty
PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.2024 of 2020
IN
CRL A(MD) No.110 of 2020

VIGNESH

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
(CRIME NO.3 OF 2017)

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass an order to suspend the sentence as imposed on the petitioner by means of a judgment dated 31.01.2020 made in Spl.S.C.28 of 2017 on the file of the Honble Special Court for the Protection of Children from Sexual Offences (POCSO) Act, Nagercoil, Kanyakumari District forthwith, pending disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.S.PALANI VELAYUTHAM, Advocate for the petitioner and of MR.V.NEELAKANDAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner, by judgment dated 31.01.2020 made in Spl. SC No.28 of 2017 by the Special Court for the Protection of Children from Sexual Offences (POCSO) Act, Nagercoil, Kanyakumari District and to enlarge the petitioner on bail till the disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner/Accused submitted that the petitioner/Accused was convicted by the trial court for the offence under section 366(A) IPC and sentenced him to undergo 2 years simple imprisonment along with fine of Rs.1000/-, in default to undergo one month of simple imprisonment and for the offence under section 4 of POCSO Act, sentenced him to undergo 7 years of rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo one year rigorous imprisonment and for the



offence under section 8 of POCSO Act, sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo one month rigorous imprisonment.

3.The learned counsel appearing for the petitioner/Accused further submitted that the petitioner/Accused is an innocent person and he has been falsely implicated in this case and that there are several infirmities in the prosecution case and there are contradictions in material particulars between the evidence of the prosecution witnesses and that the petitioner/accused is in jail for more than 101 days and prays for suspension of sentence.

4.It is submitted by the learned Additional Public Prosecutor appearing for the respondent/State that the trial court has rightly convicted the petitioner/accused and there are enough materials available on record against the petitioner/accused and there is no infirmity in the prosecution case and prays for dismissal of this petition.

5.This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

6.The learned counsel for the petitioner/accused pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and the petitioner/accused is in incarceration for more than 101 days and as such, this court is of the considered view that the petitioner/accused herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner/accused is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Special Court for Protection of Children from Sexual Offences (POCSO) Act, Nagercoil, Kanyakumari District and on further condition that the petitioner/Accused shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm pending appeal.

sd/-
12/05/2020

/ TRUE COPY /

/ /2020

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE SESSIONS JUDGE,
SPECIAL COURT FOR THE PROTECTION OF CHILDREN
FROM SEXUAL OFFENCES (POCS) ACT,
NAGERCOIL, KANYAKUMARI DISTRICT.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.2024 of 2020
IN
CRL A (MD) No.110 of 2020
Date :12/05/2020

er

AE/PN/SAR-III (12.05.2020) 3P 5C