



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fifth day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.11862 of 2021

IN CRL.A.No.372 of 2020

INDIRAN

[PETITIONER]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
THUDIYULUR POLICE STATION,
COIMBATORE DISTRICT.
(CRIME NO.23/2017)

[RESPONDENT]

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 made in judgment in Spl.C.C.No.47/2019 dated 14/08/2020 by learned Sessions Judge, Special Court for Exclusive Trial under POCSO Act, Coimbatore.

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.W.CAMYLES GANDHI, Advocate for the petitioner, and of M/S.R.MUNIYAPPARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by P.N.PRAKASH,J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 14.08.2020 passed in Spl.C.C.No.47 of 2019 on the file of the Sessions Court, Special Court for Exclusive Trial of Cases under the



Protection of Children from Sexual Offences Act (for brevity "the POCSO Act"), Coimbatore and to enlarge the petitioner on bail pending disposal of the above appeal.

2. The petitioner, who was an accused in Spl.C.C.No.47 of 2019 before the Sessions Court, Special Court for Exclusive Trial of Cases under the the POCSO Act, Coimbatore, was convicted of the offences under Sections 5(1), 5(n), 5(j)(ii) r/w 6 of the POCSO Act and sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/-, in default to undergo one year rigorous imprisonment.

3. Challenging the aforesaid conviction and sentence, the petitioner has filed Crl.A.No.372 of 2020 along with Crl.M.P.No.5624 of 2020 seeking suspension of sentence and bail, which was dismissed by this Court on 02.02.2021 and this is the second petition seeking suspension of sentence and bail.

4. Heard Mr.W.Camyles Gandhi, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that the petitioner had seduced a thirteen year old girl and made her pregnant.

6. We find no change in facts and circumstances of the case to grant suspension of sentence and bail to the petitioner.

7. At this juncture, pertinent it is to point out that the Supreme Court, in **Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)**¹, has considered **Kashmira Singh v. State of Punjab**² and has held as follows:

"30. . . . In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But it is well settled, as observed in *Vijay Kumar [(2002) 9 SCC 364 : 2003 SCC (Cri) 1195 : JT 2002 Supp (1) SC 60]* that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider all the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity

1 (2008) 5 SCC 230

2 1977 SCC (Cri) 559



of the offence, the desirability of releasing the accused on bail after he has been convicted for committing serious offence of murder, etc. It has also been observed in some of the cases that normal practice in such cases is not to suspend the sentence and it is only in exceptional cases that the benefit of suspension of sentence can be granted."

8. In view of the above reasoning and also taking into consideration the facts and circumstances of the case, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner and accordingly, this criminal miscellaneous petition stands dismissed.

However, the Registry is directed to call for the records, prepare the typed set of papers and post the main appeal for final disposal in the third week of December 2021.

-sd/-
25/11/2021

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,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER THE THE POCSO ACT, COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
THUDIYULUR POLICE STATION,
COIMBATORE DISTRICT.



4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

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

C.C. to M/S. S.N.ARUNKUMAR Advocate on payment of necessary charges

Order

in
CRL MP.11862/2021
in
CRL A.372/2020

Date :25/11/2021

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

TA-29/11/2021