



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

Monday, the Fifth day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

Crl.MP(MD)No.1921 of 2021
in
Crl.A(MD)No.115 of 2021

VIBIN KUMAR

... APPELLANT/SOLE ACCUSED

Vs

STATE REP BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
MANAMADURAI, SIVAGANGAI DISTRICT.
(CRIME NO.24/2016)

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence passed by the Learned Sessions Judge, Special Court for Exclusive Trial of Cases under the POCSO Act, Sivagangai in Special Sessions Case No.4/2017 dated 20.11.2020 and enlarge the petitioner on bail pending disposal of Crl.A(MD)No.115 of 2021.

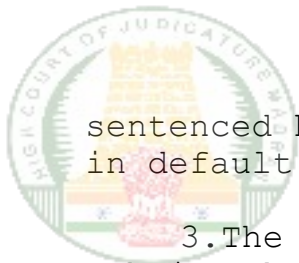
PRAYER IN Crl.A(MD)No.115 of 2021:

To call for the records relating to judgment dated 20.11.2020 in Spl.SC.No.4 of 2017 on the file of Special Court for exclusive Trial of cases under the POCSO Act, Sivagangai and to set-aside the Conviction and sentence, allow the appeal by acquitting the appellant.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.KUMAR.M., Advocate for the petitioner and of MR.RMS.SETHURAMAN, Counsel for State Government (Crl Side) for the Respondent the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Sivagangai, in Special Sessions Case No.4 of 2017, dated 20.11.2020 and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner/Accused submitted that the petitioner was convicted by the trial court for the offence under section 5(1) r/w.6 of POCSO Act, 2012 and



sentenced him to undergo 10 years RI and to pay Rs.1,000/-, as fine, in default to undergo 2 weeks SI.

3.The learned counsel appearing for the petitioner further submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution 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 is in jail from 20.11.2020 and prays for suspension of sentence.

4.It is submitted by the learned counsel appearing for the State that the trial court, on proper appreciation of evidence both oral and documentary, has rightly convicted the petitioner and there are enough materials available on record against the petitioner 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 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 as such, this court is of the considered view that the petitioner 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 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 Exclusive Trial of Cases under POCSO Act, Sivagangai and on further condition that the petitioner shall appear before the said court daily twice ie., at 10.30 am and 5.00 pm, pending appeal.

Sd/-
05/07/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER THE POCSO ACT, SIVAGANGAI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, MANAMADURAI,
SIVAGANGAI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.KUMAR, Advocate (SR-4334[I] dated 05/07/2021)

ORDER
IN
Cr1.MP(MD)No.1921 of 2021
in
Cr1.A(MD)No.115 of 2021
Date :05/07/2021

VB/AKM/SAR.I/07.07.2021/3P/6C