



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

Tuesday, the Thirteenth day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3443 of 2021
in
CRL.A.(MD)No.449 of 2018

SELVARAJ

... PETITIONER/ APPELLANT NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KANDAMANUR POLICE STATION,
RAJATHANI CIRCLE, THENI DISTRICT.
CRIME NO.210/2015.

... RESPONDENT/ RESPONDENT

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 of imprisonment imposed by the Learned Sessions Judge Mahalir Neethimandram (Fast Track Mahila Court), Theni in S.S.C No.22 of 2016 by the Judgment dated 21.08.2018 and enlarge the Petitioner /Appellant No.1 on bail, pending disposal of the above said CRL.A.(MD)No.449 of 2018.

PRAYER IN CRL.A. (MD)No.449 of 2018:

To set aside the judgment and Conviction dated 21.08.2018, by the learned Sessions Judge Mahalir Neethimandram (Fast Track Mahila Court), Theni in S.S.C No.22 of 2016 and acquit the Appellants.

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.MA.KARUNANITHI, Advocate for the petitioner and of Mr.RMS.SETHURAMAN, Counsel for State Government on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Spl.S.C.No.22 of 2016, dated 21.08.2018 on the file of the learned Sessions Judge, Mahalir



Neethimandram (Fast Track Mahila Court), Theni and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Judge, for the alleged offence under Section 366 IPC, and sentenced him to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.5,000/-, in default to undergo rigorous imprisonment for a period of two years and for the alleged offence under Section 6 of Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.5,000/-, in default to undergo rigorous imprisonment for a period of two years in Spl.S.C.No.22 of 2016 on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Theni.

3.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the petitioner is in custody from 21.08.2018.

4.It is submitted by the learned Standing Counsel appearing for State Government (Crl.side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

6.The learned counsel appearing for the petitioner pointed out that 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, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i)the petitioner is directed to be enlarged on bail on condition that the petitioner 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 learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Theni;



(ii) and on further condition that the petitioner shall appear before the said Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending appeal.

sd/-
13/07/2021

WEB COPY

/ TRUE COPY /

/ /2021

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

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THENI.

2.-DO-THRO' THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
THENI.

3 THE INSPECTOR OF POLICE,
KANDAMANUR POLICE STATION,
RAJATHANI CIRCLE, THENI DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.

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

ORDER
IN
CRL MP(MD) No.3443 of 2021
IN
CRL.A.(MD) No.449 of 2018
Date :13/07/2021

VSD
AE/AKM/SAR-5/14.07.2021/3P.6C