



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

Wednesday, the Twenty Second day of September Two Thousand and
Twenty One

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PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.4768 of 2021
IN
CRL A(MD) No.294 of 2021

M.NIJAR ALI ... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REPRESENTED THROUGH
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MADURAI TOWN, MADURAI CITY.
CRIME NO.17 OF 2017.

... RESPONDENT/RESPONDENT/COMPLAINANT

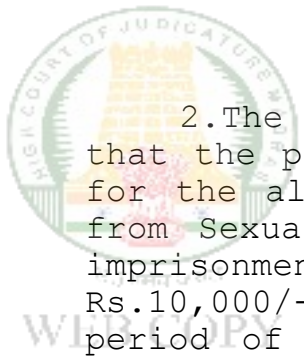
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed vide Judgement dated 16.09.2020 for the offences under section 4 of Protection of Children from Sexual Offences Act, 2012 passed by the learned Special Judge, Madurai in Special Sessions Case No.76/2017 and enlarge the petitioner on bail till the disposal of this Appeal.

Prayer in CRL A(MD) No.294 of 2021:

To call for the records from the learned Special Sessions Judge, Madurai for POCSO Act in Special S.C.No.76 of 2017 heard and set aside the conviction for the offences under Section 4 of Protection of Children from Sexual Offences Act, 2012 dated 16.09.2020 by Trial Court and acquit the Appellant/Accused.

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.SARAVANA KUMAR.R, Advocate for the petitioner and of Mr.RMS.SETHURAMAN, Standing Counsel for State Government for the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed in Spl.S.C.No.76 of 2017, dated 16.09.2020 by the learned Sessions Judge, Special Court for Exclusive trial of Cases under POCSO Act, Madurai and enlarge the petitioner/accused on bail till the disposal of the Criminal Appeal.



2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 4 of Protection of Children from Sexual Offences Act, and sentenced him to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.10,000/-, in default to undergo rigorous imprisonment for a period of one year in Spl.S.C.No.76 of 2017 on the file of the learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Madurai.

3.It is submitted by the learned counsel appearing 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 and he prayed for suspension of sentence. He further submitted that as per direction of this Court, the petitioner has drawn the Demand Draft for Rs.50,000/- (Rupees Fifty thousand only) in favour of the victim's mother in D.D.No.765681 on 20.09.2021 and handed over to the learned Additional Public Prosecutor and also filed a memo to that effect.

4.It is submitted by the learned Additional Public Prosecutor 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, Special Court for Exclusive trial of Cases under POCSO Act, Madurai;



(ii) and on further condition that the petitioner shall appear before the said Court daily at 10.30 a.m. pending appeal.

sd/-
22/09/2021

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

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MADURAI TOWN, MADURAI CITY.

3 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.

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

+2 CC to M/s.R.SARAVANAKUMAR, Advocate (SR-6470[I] dated 22/09/2021)

ORDER
IN
CRL MP(MD) No.4768 of 2021 IN
CRL A(MD) No.294 of 2021
Date :22/09/2021

VSD
MS/VR/SAR-4/22.09.2021/3P.7C