



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

Thursday, the Ninth day of September Two Thousand and Twenty One  
PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL.M.P. (MD)No.6773 of 2021  
in  
CRL.A. (MD)No.227 of 2021

C.KESAVAN

... APPELLANT / ACCUSED

Vs

THE STATE REP.BY,  
THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION, KUZHITHURAI,  
KANYAKUMARI DISTRICT.  
CRIME NO.19 OF 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 grant Suspension of Sentence imposed in the Conviction and Judgment in Special S.C.No.05 of 2017 on the file of the Special Court for POCSO Act Cases, Kanyakumari, dated 21.04.2021 and enlarge the Appellant/Accused on Bail pending disposal of the above Criminal Appeal.

Prayer in CRL.A. (MD)No.227 of 2021:

To Call for the records and set aside the Judgment of the Sessions Special Court for POCSO Act Cases, Kanyakumari District at Nagercoil dated 21.04.2021 made in Special S.C.No.05 of 2017 in so far as against the Appellant/Accused herein and allow the above Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.G.ANTO PRINCE, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Counsel for State (Criminal Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed in Spl.S.C.No.05 of 2017, dated 21.04.2021 by the Special Court for POCSO Act Cases, Kanyakumari District at Nagercoil and enlarge the petitioner/accused 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 learned trial judge, for the alleged offence under Section 3(a), 4 of POCSO Act and sentenced him to undergo rigorous imprisonment for a period of 8 years and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of 6 months in Spl.S.C.No.05 of 2017 on



the file of the Sessions Judge, Special Court for POCSO Act Cases, Kanyakumari District at Nagercoil.

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.

4.It is submitted by the learned 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:-

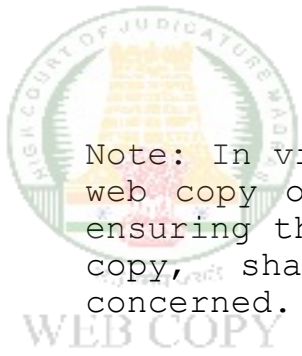
(i)the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for POCSO Act Cases, Kanyakumari District at Nagercoil;

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

sd/-  
09/09/2021

/ 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,  
SPECIAL COURT FOR POCSO ACT CASES,  
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 2 THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION, KUZHITHURAI,  
KANYAKUMARI DISTRICT.
- 3 THE SUPERINTENDENT,  
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL.M.P. (MD) No.6773 of 2021  
in  
CRL.A. (MD) No.227 of 2021  
Date :09/09/2021

MK/VR/SAR.I/13.09.2021/3P/5C