



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

Monday, the Twenty Seventh day of September Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.7227 of 2021

IN

CRL A(MD)No.394 of 2021

KALUGU @ MARUTHURAJ

... PETITIONER/APPELLANT/ACCUSED No.1

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SIVAKASI ALL WOMEN POLICE STATION,
M.PUTHUPATTI,
VIRUDHUNAGAR DISTRICT.
CRIME NO.27 OF 2016

... 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 and enlarge the petitioner on bail imposed on the appellant by the judgment dated 18/08/2021 made in Spl.S.C.No.50 of 2016 on the file of Special Court for Exclusive Trial Cases under Pocso Act 2012, Virudhunagar at Srivilliputtur.

PRAYER IN CRL A(MD)No.394 of 2021:

To call for the records relating to the judgment dated 18.08.2021 made in Spl.S.C.No.50 of 2016 on the file of Special Court for Exclusive Trial cases under POCSO Act 2012, Virudhunagar at Srivilliputtur and set aside the conviction and sentence imposed against the Appellant/accused No.1 and allow above appeal by acquitting the 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.J.SULTHAN BASHA, Advocate for the petitioner and of Mr.RMS.SETHURAMAN, Additional Public Prosecutor(crl.side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Special Court for Exclusive Trial of Cases under POCSO Act 2012, Virudhunagar at Srivilliputtur, dated 18.08.2021 in Spl.S.C.No.50 of 2016 and enlarge the petitioner on bail.



2.The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 506(i) IPC and sentenced him to undergo imprisonment for a period of two years and to pay a fine of Rs.5,000/-, and for the alleged offence under Section 12 r/w 11(iv) of Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo imprisonment for a period of three years and to pay a fine of Rs.5,000/- in Spl.S.C.No.50 of 2016 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act 2012, Virudhunagar District at Srivilliputtur.

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. The learned counsel for the petitioner further submitted that suspension of sentence has already been granted by the trial court till 17.09.2021.

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 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 and 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, Virudhunagar District at Srivilliputtur, and on further condition that the petitioner shall appear before the said Court daily at 10.30 a.m. pending appeal.

sd/-

27/09/2021

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/ /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 SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR

2.THE INSPECTOR OF POLICE
SIVAKASI ALL WOMEN POLICE STATION,
M.PUTHUPATTI,
VIRUDHUNAGAR DISTRICT.

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

+1 cc to Mr.J.SULTHAN BASHA, Advocate, SR.No.6640

ORDER

IN

CRL MP (MD) No.7227 of 2021

IN

CRL A (MD) No.394 of 2021

Date :27/09/2021

SA/PN/SAR.4/28.09.2021/3P/5C