



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

Friday, the First day of October Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.7915 of 2021
IN
CRL A(MD)No.410 of 2021

THAVAMANI

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SAMAYANALLUR,
MADURAI.

... 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 imposed on the petitioner in Spl.S.C.No.28/2018 dated 03.09.2021 by the Principal Special Court for Exclusive Trial of Case under POSCO Act, Madurai and enlarge them on bail pending disposal of the above appeal.

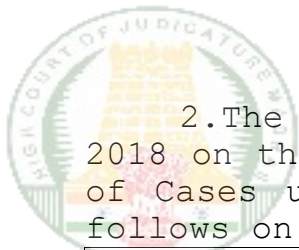
PRAYER IN CRL A(MD)No.410 of 2021:

To call for the records and set aside the judgment and sentence passed in Spl.S.C.No.28/2018 dated 03.09.2021 by the Principal Special court for Exclusive Trial of Cases under POCSO Act, Madurai allow the 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 Mr.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner and of Mr.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor (crl.side) on behalf of the Respondent, the court made the following order:-

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment dated 03.09.2021 passed in Spl.S.C.No.28 of 2018, on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, and to enlarge the petitioner on bail pending disposal of the appeal.



2.The petitioner, who was the sole accused in Spl.S.C.No.28 of 2018 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, was convicted and sentenced as follows on 03.09.2021:-

Accused	Provision under which convicted	Sentence
Thavamani (sole accused)	Section 7 r/w 8 of POCSO Act	undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment

3.Challenging the above said conviction and sentence, the petitioner has filed Crl.A(MD) No.410 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.Heard Mr.G.Karuppasamy Pandiyan, learned counsel for the petitioner and Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor appearing for the respondent/State.

5.It is the case of the prosecution that on 06.03.2017 while at the time the victim girl was returned to her house, the accused in a drunken mood near P.W.1's in-law's house had asked the victim girl to come by calling her "come pappa" and drag her by holding his hand, removed his dress and holding his penis, asked her by holding her hand to swing it.

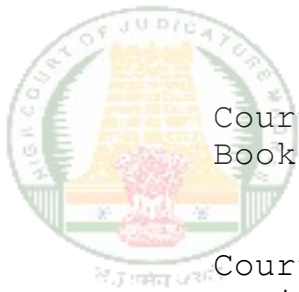
6.It is seen that the complaint in this case was registered only on 08.03.2017 with the delay of two days. Hence, the evidence given by P.W.1 in respect to the registration of the case needs detailed appraisal as the delay would satisfactorily explained or not.

7. Apart from that the petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner has been in incarceration from 03.09.2021. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Principal Special Court for Exclusive Trial of Cases under POSCO Act, Madurai.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial



Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

01/10/2021

/ TRUE COPY /

/ /2021

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

TO

- 1.THE PRINCIPAL SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
MADURAI.
- 2.THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3.THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SAMAYANALLUR, MADURAI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION RECORDS,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI **(SOFT COPY)**

ORDER

IN

CRL MP(MD) No.7915 of 2021

IN

CRL A(MD)No.410 of 2021

Date :01/10/2021

SA/JM/SAR.3/01.10.2021/3P/5C