



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

Thursday, the Seventh day of October Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.8238 of 2021

IN

CRL A(MD)No.420 of 2021

PETHANASAMY

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION(SOUTH),
MADURAI CITY.
(CRIME NO.5 /2015)

... RESPONDENT/RESPONDENT

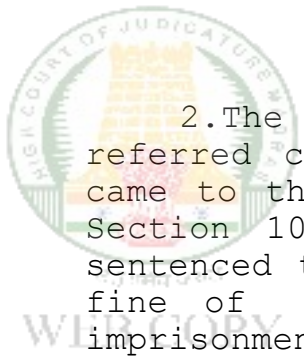
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed on the petitioner by the learned principal Sessions court for Exclusive Trial of Cases, Madurai under POCSO Act, Madurai in Speical S.C.No.17 of 2016 by the judgment dated 15.09.2021 and enlarge the petitioner on bail pending disposal of the above appeal.

PRAYER IN CRL A(MD)No.420 of 2021:

To call for the records and to allow this appeal and set aside the judgment and conviction dated 15.09.2021 passed by the learned Principal Special Court for Exclusive Trial of Cases Under POCSO Act, Madurai in Special S.C.No.17 of 2016 and acquit the appellant.

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.K.SUDALAIYANDI, Advocate for the petitioner and of Mr.M.MUTHUMANIKKAM, Government Advocate(crl.side) on behalf of the Respondent While admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment dated 15.09.2021 passed in Spl.S.C.No.17 of 2016, on the file of the Principal Sessions Court for Exclusive Trial of Cases, Madurai under POCSO Act, Madurai and to enlarge the petitioner on bail pending disposal of the appeal.



2.The petitioner is arrayed as second accused in the above referred case. After full-fledged trial, the learned trial court came to the conclusion that the petitioner was found guilty under Section 10 of Prohibition of Child Marriage Act, convicted and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment.

3.Challenging the above said conviction and sentence, the petitioner has filed Crl.A(MD) No.420 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.Heard Mr.K.Sudalaiyandi, learned counsel for the petitioner and Mr.M.Muthumanikkam, Government Advocate (Crl.side) appearing for the respondent/State.

5.It is the case of the prosecution that the petitioner/appellant being the father of the victim child permitted her to marry the first accused, which is liable to be convicted under Section 10 of Prohibition of Child Marriage Act.

6.It is seen that in Ex.C3-Transfer Certificate, the date of birth of the victim is mentioned as 27.02.1997. On the other hand, in the Age Certificate issued by the Radiologist, the age of the victim child was determined as 18 to 21, which is contra to Ex.C3. Further, P.W1, who is none other than the daughter of the petitioner/appellant gave evidence as she is having love affair with the first accused and decided to marry him. In the said circumstances, the evidence given by P.W1 needs a detailed appraisal.

7. Apart from that the petitioner has raised substantial grounds in the appeal which also require detailed appraisal. 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 Sessions Court for Exclusive Trial of Cases, Madurai under POCSO 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 respondent police everyday at 10.30 a.m for the period of four weeks and thereafter, 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/-
07/10/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

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

+1. C.C. to Mr.K.SUDALAIYANDI, Advocate SR.No.6994

ORDER

IN

CRL MP(MD) No.8238 of 2021 IN
CRL A(MD)No.420 of 2021
Date :07/10/2021

SA/JM/SAR.3/07.10.2021/3P/6C