



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

Thursday, the Twenty Eighth day of October Two Thousand and Twenty
One
PRESENT

WEB COPY

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL.M.P. (MD)No.8982 of 2021
in
CRL.A. (MD)No.159 of 2021

MARI ... PETITIONER/ APPELLANT / SINGLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THIRUMANGALAM,
MADURAI DISTRICT
(CRIME NO.77 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 imposed in Spl.S.C.No. 105 of 2018 dated 19.11.2020 passed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai and enlarge the petitioner on bail pending disposal of main Criminal Appeal.

Prayer in CRL.A. (MD)No.159 of 2021:

To call for the records and set aside the conviction and sentence passed in Spl.S.C.No. 105 of 2018 dated 19.11.2020 by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai.

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.P.MANIMARAN, Advocate for the petitioner and of MR.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent, 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 19.11.2020 passed in Spl. S.C.No.105 of 2018, on the file of the Sessions Judge, 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 is arrayed as sole accused in the above referred case. After full-fledged trial, the learned trial Judge came to the conclusion that the petitioner was found guilty under Section 10 of POCSO Act, 2012, convicted and sentenced to



undergo Rigorous Imprisonment for a period of 5 years and to pay a fine of Rs.3,000/-, in default to undergo Rigorous Imprisonment for 5 months.

3.Challenging the above said conviction and sentence, the petitioner has filed Crl.A(MD) No.159 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

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

5.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 the petitioner has been in judicial custody from 19.11.2020.

6.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, there is no infirmity in the prosecution case. Accordingly, he strongly opposed to grant suspension of sentence.

7.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8.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 the petitioner is in jail since 19.11.2020 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.

9.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 Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai.

(ii) The sureties shall affix their

<https://hcservices.ecourts.gov.in/hcservices> 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/-

28/10/2021

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

ORDER
IN
CRL.M.P. (MD)No.8982 of 2021
in
CRL.A. (MD)No.159 of 2021
Date :28/10/2021

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<https://hccvce1469a.gov.in/Case/10.2021/3P/5C>