



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

Tuesday, the Ninth day of November Two Thousand and Twenty One
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.8682 of 2021

IN

CRL A(MD) No.437 of 2021

VELLADURAI

... PETITIONER/APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
TIRUNELVELI TOWN,
TIRUNELVELI.
(CRIME NO. 7/2018)

... 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 of Imprisonment imposed in Spl Case No. 223 of 2019 on the file of the learned Sessions Judge, (Spl Court for POCSO Act cases), Tirunelveli, dt.01.10.2021 and enlarge the petitioner / Appellant on bail, pending disposal of the above Criminal Appeal.

PRAYER IN CRL A(MD) No.437 of 2021:

Pleased to call for the records and set aside the judgment and conviction dated 01.10.2021 made in Spl.Case.No.223 of 2019 on the file of the learned Sessions Judge, (Special Court for POCSO Act Cases), Tirunelveli, and acquit the Appellant/Sole 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 M/S.DEENADHAYALAN.S, Advocate for the petitioner and of Mr.R.M.ANBUNITHI, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli in Spl.Case.No.223 of 2019 dated 01.10.2021, till the disposal of the appeal.

2.The case against the petitioner is that he committed rape on the minor witness P.W.2, who is aged about 17 years. A case was filed against the petitioner in Crime No.7 of 2018 under Section 4 r/w. 8 of POCSO Act. The chargesheet was filed and the same was taken on file as SplCase No.223 of 2019 on the file of the learned



Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli. After trial, the learned Sessions Judge, Madurai found the petitioner guilty and he convicted the petitioner and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) in default to undergo six months simple imprisonment for the offence under Section 3(a) r/w. 4 of POCSO Act and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo six months simple imprisonment for the offence under Section 7 r/w. 8 of POCSO Act. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.437 of 2021 and along with the appeal, they filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that there was a love affair between the victim and the petitioner. The occurrence said to have taken place on 12.03.2018 but the complaint was lodged on 14.12.2018, after a lapse of seven months. The father of the victim, P.W.1 turned hostile. The neighbours, who were witnesses turned hostile. The evidence of P.W.2 victim is unreliable. The date of occurrence as per prosecution and as per the evidence of P.W.2 differs. There is no external injury as per the medical evidence. Only due to some animosity between both the families, a false complaint was registered. The petitioner was on bail throughout the trial and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the prosecution has examined 22 witnesses and marked 17 documents and proved the case beyond all reasonable doubts. The petitioner is in custody from 01.10.2021 that is only for the past one month and prayed the petition to be dismissed.

5.Considering the age of the victim, considering the relationship between the parties and considering the age of the accused, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioner is ordered to be released on bail on the following conditions:

(i)the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act, Tirunelveli ;

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain valid identity proof to ensure their identity ;

<https://hcscservices.gov.in/hcscservices/>



(iii) the petitioners shall appear before the Trial Court daily once at 10.30 a.m., until further orders ;

sd/-

09/11/2021

/ TRUE COPY /

WEB 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),
TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, TIRUNELVELI TOWN,
TIRUNELVELI
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.DEENADHAYALAN.S, Advocate SR.No.7920

ORDER
IN
CRL MP(MD) No.8682 of 2021
IN
CRL A(MD) No.437 of 2021
Date :09/11/2021

Mrn

SS/JM/SAR-II/11.11.2021 : 3P/6C