



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

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

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL.M.P.(MD)No.8953 of 2021
in
CRL.A.(MD)No.290 of 2021

UTHAYA CHANDRAN

... PETITIONER/ APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
PONNAMARAVATHI POLICE STATION, PUDUKKOTTAI DISTRICT.
CRIME NO.149 OF 2019

... RESPONDENT/ RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order of Suspension the Sentence, to suspend the sentence of the Petitioner, imposed vide Judgment dt.29.6.2021 made in Spl.SC.No.3 of 2020 on the file of the learned Mahila Court, Pudukottai, pending disposal of the present Criminal Appeal.

Prayer in CRL.A.(MD)No.290 of 2021:

To call for the entire records in relating to the impugned conviction judgment dated 29.06.2021 made in Spl.SC.No.3 of 2020 on the file of the Learned Mahila Court, Pudukkottai and to set aside the same and consequently to 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.M.S.JEYA KARTHIK, 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 29.06.2021 passed in Spl. S.C.No.3 of 2020, on the file of the Sessions Judge, Mahila Court, Pudukottai 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 9(m) r/w 10 of POCSO Act, 2012, convicted and sentenced to undergo Rigorous Imprisonment for a period of 6 years and to pay a fine of Rs.50,000/-, in default to undergo Simple Imprisonment for



3.Challenging the above said conviction and sentence, the petitioner has filed CrI.A(MD) No.290 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.Heard Mr.M.S.Jeya Karthik, 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 29.06.2021 and he has also paid the fine amount of Rs.50,000/-, on 11.10.2021.

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 29.06.2021 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, Mahila Court, Pudukottai;

(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

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

/ TRUE 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,
MAHILA COURT, PUDUKOTTAI.

2 THE INSPECTOR OF POLICE
POONAMARAVATHI POLICE STATION, PUDUKKOTTAI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

+1 CC to MR.M.S.JEYAKARTHIK, Advocate (SR-7679[I] dated 29/10/2021)

ORDER
IN
CRL.M.P. (MD)No.8953 of 2021
in
CRL.A. (MD)No.290 of 2021
Date :28/10/2021

ER
MK/PN/SAR.I/01.11.2021/3P/6C