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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.747 of 2022

in Crl.A.No.55 of 2022

Ajithkumar

... Petitioner

..Vs..

State By:

... Respondent

The Inspector of Police,
All Women Police Station,
Cuddalore District.
(Crime No.19 of 2020).

PRAYER: Criminal Miscellaneous petition filed under Section 389(i) of Cr.P.C, to suspend the sentence passed by the Special Court (POCSO Cases), Cuddalore on 30.12.2021 in Special Sessions Case No.19 of 2020 and enlarge the petitioner on Bail, pending disposal of the Criminal Appeal.

For Petitioner : Mr.V.Ayyapparaja

For Respondent : Mr.S.Sugendran,
Government Advocate (crl.side)

ORDER

(This Case has been heard through video conferencing)

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed by the Special Court (POCSO Cases), Cuddalore on 30.12.2021 in Special Sessions Case No.19 of 2020 and enlarge the petitioner on Bail, pending disposal of the Criminal Appeal.

2.In and by the judgment of the trial court, petitioner/accused was convicted for the offence under Section 11 r/w 12 of POCSO Act 2012 and sentenced to undergo for three years of Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default to undergo one month of Simple Imprisonment and against which the present appeal has been filed.



3. Learned counsel appearing for the petitioner would submit that the allegation against the petitioner is that he had sent messages and voice messages to the phone of the victim's mother and he had compelled the victim to pose nudely. However, the phone has not been recovered and the prosecution has failed to prove the case beyond reasonable doubts. He would submit that the Trial Judge failed to take into consideration the evidence of DW1 which was given in evidence. Further, none of the passengers who were travelled along with the victim have been examined by the prosecution. He would further submit that the Trial Court has suspended the sentence. He would further submit that there are arguable points available in the Criminal Appeal Case, which is not likely to be taken for final hearing in the near future and the Petitioner/accused has got a fair chance of succeeding in the Criminal Appeal Case.

4. Mr.S.Sugendran, learned Government Advocate (crl.side) would submit that the petitioner is the driver of the van and that he had sexually harassed the victim girl and had called her through the phone of the victim's mother and he had also sent messages and voice messages and also asked to send her photographs. He would further submit that the Trial Court finding that the prosecution had proved the case beyond reasonable doubt has found the accused guilty for the offence under section 11 r/w 12 of POCSO Act 2012.

5. Heard the learned counsels and perused the materials on record.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner/accused, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal appeal, the reliefs of suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioner/accused shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)**, with two sureties, each for a like sum to the satisfaction of the Special Court (POCSO cases), Cuddalore, within 15 days from the date of commencement of the court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further condition that:
- ii. The petitioner/accused shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.



7. The Criminal Miscellaneous Petition is ordered accordingly.

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-sd/-
28/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT (POCSO CASES)
CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CUDDALORE DISTRICT.

Copy To:

THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S R.BHARATH KUMAR Advocate on payment of necessary charges

Order

in
CRL MP.747/2022
in
CRL A.55/2022

Date :28/01/2022

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

TA-31/01/2022