



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Fifteenth day of February Two Thousand Twenty Two

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PRESENT

The Hon`ble Mr Justice N. SESHASAYEE
CRIMINAL MISCELLANEOUS PETITION No.1470 of 2022

IN CRL.A.No.112 OF 2022

BALASUBRAMANIAM

[PETITIONER/APPELLANT]

Vs

STATE REP BY
INSPECTOR OF POLICE,
W-10, ALL WOMEN POLICE STATION,
FLOWER BAZAAR RANGE, CHENNAI - 01.
(CR. NO. 01 OF 2015)

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.112 OF 2022 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment passed by the trial court the Sessions Judge, Special Court for Exclusive Trail of Cases Under Pocso Act, Chennai - 600 104, dated 29-12-2021 in Sessions Case No. 112 of 2017 and direct the release of the Petitioner/Appellant on pending disposal of the appeal in the interest of justice and equity.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.112 OF 2022 on the file of the High Court and upon hearing the arguments of M/S. S.KINGSTON JEROLD, Advocate for the petitioner and of MR.LEONARD ARUL JOSEPH SELVAM, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 29.12.2021 in SC.No.112 of 2017 passed by the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act.

2.In and by the judgment of the Sessions Court, the Petitioner was convicted for the offences under Section 12 of POCSO Act, 2012, and sentenced to undergo imprisonment for 3 years with a fine of Rs.25,000 and in default to undergo simple imprisonment for 3 months. Against which, the present appeal has been filed.



3.The case of the prosecution is that the petitioner/appellant has shown some footage from his cellphone to the victim girl aged around 7 years.

4.This Court heard the learned counsel for the petitioner and also perused the materials placed on record.

5.The learned counsel for the petitioner submits that no evidence of any kind was recovered by the Police. He added that the petitioner/appellant was convicted on a plea that he might have deleted whatever he showed to the victim between the time of offence and the time of his arrest.

6.The learned counsel for the petitioner/accused further added that, there are arguable points available in the Criminal Appeal, and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment alone 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:

(a) The petitioner/accused is ordered to be released on bail, on he executing 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 Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai - 600 104.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the Criminal Appeal 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 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.



8. The Criminal Miscellaneous Petition stands ordered accordingly.

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-sd/-
15/02/2022

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, CHENNAI 600 104.

2 INSPECTOR OF POLICE,
W-10, ALL WOMEN POLICE STATION,
FLOWER BAZAAR RANGE, CHENNAI - 01.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S. S.KINGSTON JEROLD Advocate on payment of necessary charges

Order

in
CRL MP.1470/2022

IN CRL.A.No.112 OF 2022

Date :15/02/2022

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RVR 18/02/2022