

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SESHASAYEE

Crl.M.P.No.2250 of 2022

in

Criminal Appeal No.171 of 2022

D.Bakkiyaraaj

... Petitioner

..Vs..

The Inspector of Police,
Attur Police Station,
Salem District.

... Respondent

PRAYER: Criminal Miscellaneous petition filed under Section 389 (1) of Cr.P.C to suspend the sentence imposed on the petitioner in Judgment dated 05.01.2022 made in New Spl.Sc.2/2019 in Old.Spl.Sc.No.7/2015 by the Principal Special Judge (Under Pocso Act 2012), Salem.

For Petitioner : Mr.K.Gokulram

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the order dated 05.01.2022 in New Spl.S.C.2/2019 in Old.Spl.S.C.No.7/2015 passed by Prinicipal Special Judge (Under POCSO Act, 2012), Salem.

2.The petitioner faced trial in Spl.SC.2/2019 in Old.Spl.S.C.No.7/2015 and the learned Principal Special Judge, (Under POCSO Act), Salem District by a judgment dated 05.01.2022 convicted the petitioner under Section 448 of IPC to undergo RI for one year and also to pay a fine of Rs.1,000/- in default to undergo simple

imprisonment for one month and convicted for offence under Section 323 of IPC and sentenced to undergo one year RI. The Accused is also convicted for the offence under Section 12 of POCSO Act, 2012 and sentenced him to undergo three years Rigorous Imprisonment and also to pay a fine of Rs.5000/- in default to undergo simple Imprisonment for three months. The Accused is also convicted for the offence under Section 8 of POCSO Act, 2012 and sentenced him to undergo three years Rigorous Imprisonment and also to pay a fine of Rs.10,000/- in default to undergo simple Imprisonment for three months and ordered to serve the sentences concurrently. Challenging the same, the present appeal has been filed along with this petition for suspension of sentence.

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

4.According to the learned counsel for the petitioner/accused, 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.

5.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 Principal Special Judge, (Under POCSO Act, 2012) Salem District.

(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.

6. This Criminal Miscellaneous Petition stands ordered accordingly.

-sd/-
24/02/2022

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 PRINCIPAL SPECIAL JUDGE
(UNDER POCSO ACT 2012), SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
ATTUR POLICE STATION,
SALEM DISTRICT.

Copy To:

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

+1 C.C. to M/S K.GOKULRAM Advocate on payment of necessary charges SR.NO.2856

Order

in
CRL MP.2250/2022
in
CRL A.171/2022

Date :24/02/2022

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TA-25/02/2022