



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

WEB COPY

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No. 3019 of 2022

in

Crl.A.No. 239 of 2022

Mahimaiddoss

... Petitioner

Versus

State represented by
Inspector of Police,
All Women Police Station,
Sethiyathope,
(Crime No. 7 of 2019)

... Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C., to suspend the sentence imposed against the petitioner in Spl.S.C.No. 81 of 2019 by the Special Court under POCSO Act, Cuddalore, dated 28.09.2021 and enlarge the petitioner on bail pending above the Criminal Appeal.

For Petitioner : Mr. A. Prabhakaran

For Respondent : Mr. S. Vinoth Kumar,
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on him by the trial Court in Spl.S.C.No. 81 of 2019 by Judgment dated 28.09.2021 on the file of the learned Sessions Judge, Special Court under POCSO Act, Cuddalore, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent.



3. The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. However, the petitioner is incarcerated from 28.09.2021. Therefore, he prays for suspension of sentence to the petitioner.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent/State would submit that in this case, the trial Court has rightly convicted the petitioner and therefore, he opposed for grant of suspension of sentence.

5. I have considered the rival submissions made on either side and perused the materials on record.

6. Considering the fact that the allegation against the petitioner is that he attempted forcibly to have a physical relationship with the child and even while he started pushing down the child shouted and another person came to rescue her, the petitioner ran away, considering the sentence imposed by the trial Court for a period of five years and considering the fact that the petitioner is under incarceration from 28.09.2021, I am of the view that this is a fit case for grant of suspension of sentence pending the above appeal. Therefore, I am inclined to suspend the sentence and grant bail to the petitioner on the following conditions:-

(a) the petitioner is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties each for a like sum to the satisfaction of the Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar 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 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.



7. This Criminal Miscellaneous Petition is ordered accordingly.

-sd/-
24/06/2022

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 UNDER
POCSO ACT, CUDDALORE

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SETHIYATHOPE,

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S A.PRABHAKARAN Advocate on payment of necessary charges SR.NO.9981

Order
in
CRL MP.3019/2022
in
CRL A.239/2022

Date :24/06/2022

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JPA 29/06/2022