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Crl.M.P.No.3662 of 2022 in Crl.A.No.307 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.3662 of 2022

in

Crl.A.No.307 of 2022

Naveen

...

Petitioner

Versus

The State Rep.by
The Inspector of Police
W-7, All Women Police Station,
Anna Nagar, Chennai,
(Crime No.2 of 2018)

...

Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389 (1) r/w 439 of the Code of Criminal Procedure to suspend the sentence of imprisonment imposed in the judgment order dated 19.03.2020 made in S.C.No.338 of 2018 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai sentencing him to undergo 3 years Rigorous imprisonment and imposed with a fine of Rs.1000/- in default to undergo further period of 3 months Rigorous imprisonment for the charge U/s.366 of I.P.C and is sentenced to undergo 10 years of Rigorous imprisonment and imposed with a fine of Rs.5000/- in default to undergo further period of 6 months Rigorous imprisonment for the charge U/s.6 of the Protection of Children from Sexual Offences



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Act 2012 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner : Mr.S.V.D.Rajendra Prasad

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

ORDER

This petition is filed to suspend the sentence of imprisonment imposed in the order dated 19.03.2020, in S.C.No.338 of 2018, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

2.The learned counsel for the petitioner would submit that the allegations in this case is in the nature of love affair and the age of the victim girl at the time of occurrence was 16 years and the age of the petitioner was 21 years. He would submit that the petitioner is in prison from 19.03.2020 onwards and submits that the Trial Court erred in convicting the petitioner.

3.Per contra the learned Government Advocate (Crl.Side) would submit that in any event the prosecution has proved that the girl is less



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than 18 years of age and therefore, the Trial Court has rightly convicted the petitioner.

4.Considering the nature of allegations being love affair and considering the age of the accused as well as the age of the victim being 16 and 21 years respectively at the time of occurrence and considering the fact that the petitioner is in prison from 19.03.2020 and it may take a while for this Court to dispose of the appeal, 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;



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(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.

5. This Criminal Miscellaneous Petition is ordered accordingly.

12.08.2022

Index : Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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- 1.The State Rep.by
The Inspector of Police
W-7, All Women Police Station,
Anna Nagar, Chennai,
(Crime No.2 of 2018)
- 2.The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, Chennai.
3. The Superintendent, Central Jail, Puzhal.
- 4.The Public Prosecutor, High Court of Madras.



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D.BHARATHA CHAKRAVARTHY. J.,

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