



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. 4622 of 2022

in

Crl.A.No. 385 of 2022

1. Duraimurugan
2.Selvamani

... Petitioners

Versus

State by
The Inspector of Police,
Theevattipatty Police Station,
Salem District,
(Cr.No.403 of 2018)

... Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C., to suspend the sentence imposed against the petitioners in New Special S.C.No.190 of 2019 in Old Special S.C.No. 159 of 2018 on the file of the Sessions Judge for Special Court for POCSO Cases, Salem and enlarge the petitioners on bail pending disposal of the Criminal Appeal.

For Petitioners: Mr. D. Ashok Kumar

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

ORDER

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioners by judgment dated 21.02.2022 passed by the trial Court in New Spl.S.C.No. 190 of 2019 in Old Special S.C.No.159 of 2018 on the file of the learned Sessions Judge for Special Court for POCSO Cases, Salem and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

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

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution and conviction by the trial



Court is erroneous and prays for suspending the sentence.

4. Per contra, the learned Government Advocate (Crl. Side) would submit that the petitioners/accused had threatened that they had taken the pictures of the victim girls and threatened them with dire consequences. 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. A perusal of evidence shows that the allegation in the present case is that the first petitioner, who aged about 19 years and the second petitioner, who aged about 21 years, at the time of occurrence, proposed to the victim girls and when the victim girls did not agree with their proposal, they had threatened that they had already taken the pictures of the victim girls when they were attending the nature's call and therefore, only if they accept their proposal of love affair, they will not circulate such picture.

7. A further perusal of evidence on record would show that the prosecution seized two mobile phones from the accused. However, there were no such pictures and it turns out that the false claim made by the accused to threaten the victim girls.

8. In that view of the matter, considering the age of the accused, considering the sentence imposed by the Trial Court and considering the fact that the Trial Court itself suspended the sentence, 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 petitioners on the following conditions:-

(a) the petitioners are ordered to be released on bail, on their 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 petitioners 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 petitioners 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 they are not able to appear before the Trial Court on any day, they 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 their absence, as directed by the Trial Court.



9. 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 SESSIONS JUDGE FOR
SPECIAL COURT FOR POCSO CASES,
SALEM

2 INSPECTOR OF POLICE,
THEEVATTIPATTY POLICE STATION,
SALEM DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S. D.ASHOKKUMAR Advocate on payment of necessary
charges Sr.9959

Order

in
CRL MP.4622/2022

in
CRL A.385/2022

Date :24/06/2022

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RVR 27/06/2022