



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM :

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.7190 of 2022

in Crl.A.No.473 of 2022

Kuralarasan

.. Petitioner

Vs

The State Rep. By
The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.
(Crime No. 90 of 2017)

.. Respondent

Petition filed under Section 389 (1) of Cr.P.C against the order dated 05.03.2022 made in SPL S.C.No. 42 of 2019 on the file of learned Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore.

For Petitioner : Mr.R.Vivekananthan

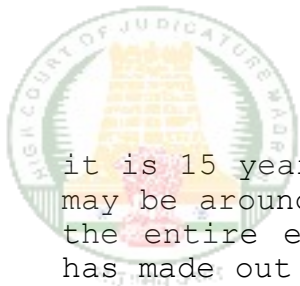
For Respondent : Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

ORDER

1. This Criminal Miscellaneous Petition has been filed to suspend the sentence, dated 05.03.2022 in Spl. S.C.No. 42 of 2019 on the file of the learned Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore and to release the petitioner / appellant on bail pending disposal of the above appeal.

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

3. Learned counsel for the petitioner would submit that a careful perusal of the evidence it would be clear that there was love affair and the victim who was aged 15 years and the accused who was aged 19 years at the time of occurrence had eloped for the second time and got married and pursuant to the marriage there was physical relationship. He would submit that the age of the victim child, as if



it is 15 years, is also disputed as per the evidence of the Doctor it may be around 17 years and he would submit that on careful perusal of the entire evidence on record it would be clear that the petitioner has made out prima facie case for grant of suspension of sentence.

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4. Per contra, learned Government Advocate (Criminal Side) would submit that even though the relationship is consensual, still the prosecution has established that the victim is less than 15 years of age and therefore the trial Court has rightly convicted the petitioner.

5. Considering the fact that the petitioner was 20 years of age at the time of occurrence and the allegation is in the nature of love affair and that they eloped from the home for the second time and then the marriage was also performed, I am of the view that this is a fit case for granting suspension of sentence pending the 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 learned Special Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore;

(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 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.

-sd/-
14/06/2022

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 JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, CUDDALORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 INSPECTOR OF POLICE,
THITTAKUDI POLICE STATION,
CUDDALORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S R.VIVEKANANTHAN Advocate on payment of necessary
charges SR.NO. 9134

Order

in

CRL MP.7190/2022

in

Cr1.A.No.473 of 2022

Date :14/06/2022

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RW-16/06/2022