



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.12344 of 2021

in

Crl.A.No.599 of 2021

Kodeeswaran

... Petitioner

Versus

State rep. by
Inspector of Police,
All Women Police Station,
Erode, Erode District.
(Crime No.24 of 2019)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) r/w Section 439 of the Code of Criminal Procedure to suspend the sentence imposed in Spl.S.C.No.15 of 2020 by Judgment dated 10.05.2021, by the learned Sessions Judge, Mahilar Neethimandram (Fast Track Mahila Court), Erode and enlarge the appellant on bail.

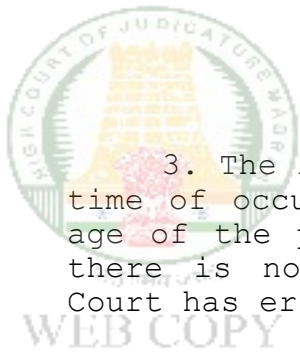
For Petitioner : Mr. M.Guruprasad

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

ORDER

This Criminal Miscellaneous Petition is to suspend the sentence imposed on the petitioner by the judgment, dated 10.05.2021 made in Spl.S.C.No.15 of 2020 by Judgment dated 10.05.2021, by the learned Sessions Judge, Mahilar Neethimandram (Fast Track Mahila Court), Erode, pending disposal of the above appeal.

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



3. The learned Counsel for the petitioner pointed out that at the time of occurrence, the age of the victim girl was 6 years and the age of the petitioner was 61 years. Further, he would submit that there is no evidence to substantiate the occurrence and the Trial Court has erred in convicting the petitioner.

4. Per contra, the learned Government Advocate (Criminal Side) would submit that the petitioner called upon the victim girl into the room and abused the victim girl.

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

6. For an offence under Section 11 and 12 of the POCSO Act, by judgement dated 10.05.2021, the petitioner was convicted to undergo rigorous imprisonment for a period of two years. Thereafter, by a direction of this Court, the petitioner was directed to surrender before the Trial Court. Pursuant to which surrendered on 17.12.2021 and thereafter, he was confined in the Central Prison, Coimbatore, for the past six months. During the trial also the petitioner was in prison for a period of 70 days.

7. Considering the submissions made on the either side, considering the nature of allegations and considering the fact that the petitioner has undergone more than 30% of the substantial sentence and considering the fact that the appeal book is yet to be made ready and it will take a while for the appeal to be argued finally, this Court is of the opinion that the suspension of sentence be granted to the petitioner. 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.



8. 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, MAHILAR
NEETHIMANDRAM (FAST TRACK MAHILA COURT),
ERODE

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ERODE, ERODE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
SUB JAIL, GOBICHETTIPALAYAM

C.C. to M/S. M.GURUPRASAD Advocate on payment of necessary
charges SR.NO.10132

Order
in
CRL MP.12344/2021
in
CRL A.599/2021

Date :24/06/2022

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RVR 28/06/2022