



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.13455 of 2021

in

Crl.A.No.656 of 2021

Saleem

... Petitioner

Versus

State rep. By
Inspector of Police,
W-6, All Women Police Station,
Ayanavaram, Chennai.
(Crime No.4 of 2017)

... 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 S.C.No.87 of 2018 by Judgment dated 10.01.2020, by the learned Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Chennai and enlarge the appellant on bail.

For Petitioner : Mr.K. Bommuraj

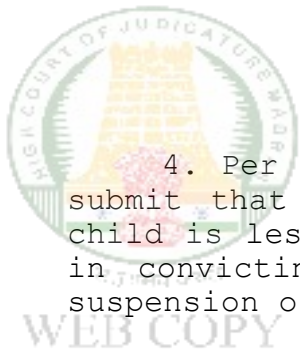
For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition is to suspend the sentence imposed on the petitioner by the judgment, dated 10.01.2020 made in S.C.No.87 of 2018 on the file of the learned Sessions Judge, Special Court for Exclusive Trial Cases under POCSO Act, Chennai 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 would submit that the accused was 29 years age at the time of occurrence and the victim girl was 17 years of age and they were neighbours and even as per the prosecution case there was a relationship and love affair between the accused and the victim girl. He would further submit that the petitioner is in prison from 10.01.2020.



4. Per contra, the learned Government Advocate (Crl. Side) would submit that in this case the prosecution has established that the child is less than 18 years of age. Therefore, Trial Court was right in convicting the petitioner and opposed the prayer of grant of suspension of sentence.

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

6. Considering the submissions made on the either side, Considering the nature of the allegation that it is in the nature of a love affair and the age of the victim and the accused, considering the facts that the accused is sentenced for 10 years of rigorous imprisonment and the fact that he is in prison from 10.01.2020 and the grounds raised in the appeal, for the purpose of prima facie case, I am of the view that this is a fit case for grant of suspense 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, தலைவர் அவர்கள்

WEB COPY

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL CASES
UNDER POCSO ACT, CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 THE INSPECTOR OF POLICE,
W-6, ALL WOMEN POLICE STATION,
AYANAVARAM, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.K.BOMMURAJ Advocate on payment of necessary charges

Order

in
CRL MP.13455/2021

in
CRL A.656/2021

Date :24/06/2022

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RVR 29/06/2022