



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.14028 of 2021

in

Crl.A.No.701 of 2021

Anand

... Petitioner

..Vs..

The Union Territory of Puducherry rep by
The Station House Officer
D Nagar Police Station,
Puducherry.
(Crime No.23 of 2019)

... Respondent

PRAYER: Criminal Appeal filed under Section 389 of Cr.P.C, to suspend the conviction and sentence grand special leave to prefer appeal from the order of conviction passed by learned Special Judge, Puducherry in Spl.S.C.No.2 of 2020 dated 20.10.2021 pending disposal of the above appeal.

For Appellant : Mr.A.Kripakaran

For Respondent : Mr.A.Balamurugan
Public Prosecutor Puducherry (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed by the Petitioner/accused, seeking suspension of sentence of imprisonment, imposed by the judgment dated 20.10.2021 made in Spl.S.C.No.2 of 2020 by the learned Special Judge, Puducherry and to enlarge the Petitioner/ Accused on bail pending disposal of the above appeal.

2.In and by the judgment of the trial court, the Petitioner/accused was convicted for the offence under section 363 IPC and sentenced to undergo 3 years R.I. with a fine of Rs.10,000/- to be paid to the victim as compensation and in default of payment of fine, to undergo six months simple imprisonment and the accused is found not guilty under section 8 of POCSO Act and acquitted.



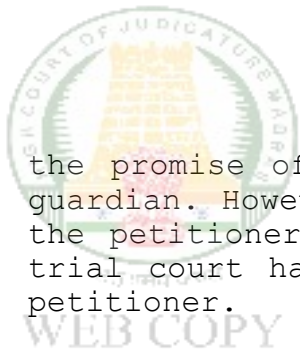
3.The brief facts of the case :

The Inspector of Police, D Nagar Police Station had laid a final report alleging that on 01.02.2019 at about 02.30 hours at Vazhudavur Salai, in front of Auro Star Super Market, VVP Nagar, Puducherry, the accused had kidnapped the victim minor girl XXX aged 16 years with intention to compel her to marry him and come out of her home and thereby caused sexual harassment while travelling by bus from Pondicherry to Chidambaram and by train from Chidambaram to Mayavaram and by bus from Mayavaram to Thirunallar and subsequently during stay at grandmother's house and thereby the accused was charged for having committed offences punishable under section 363 IPC and section 8 of POCSO Act. On appearance of the accused, copies of relevant documents were furnished to the accused as per section 207 of Cr.P.C. When the accused was questioned, the accused denied the same and sought to be tried. The trial court after perusal of materials on record framed charges under section 363 IPC and section 8 of POCSO Act.

4.On the side of the prosecution, P.W.1 to P.W.9 were examined and Exs.P1 to Ex.P8 were marked and no material objects were marked. When the accused was questioned under section 313 Cr.P.C., he denied the charges. However, no evidence was let in on the side of the defence. The trial court after hearing both sides found the petitioner/accused guilty for the offence under section 363 IPC and acquitted him from the charges under section 8 of POCSO Act.

5. Learned counsel for the petitioner would submit that though the petitioner was charged for the offences under section 363 IPC and section 8 of POCSO Act, the trial court taking into consideration the materials available on record, had found the petitioner not guilty under the POCSO Act. He would further submit that the petitioner neither abducted the victim with intention nor compelled her to marry him. Without there being any material to establish the same, the trial court had found the petitioner guilty. It is a case where the victim girl was found missing on 01.02.2019 and she was secured on the next day. The respondents suspecting that the petitioner would have taken her and registered a case against the petitioner. He would further submit that there are arguable points available in the Criminal Appeal Case, which is not likely to be taken for final hearing in the near future and the Petitioner/accused has got a fair chance of succeeding in the Criminal Appeal Case. He would further submit that the trial court had suspended the sentence of the petitioner at the time of judgment and hence, the sentence imposed against the Petitioner/accused may be suspended and enlarged on bail.

6.Mr.A.Balamurugan, learned Public Prosecutor (Pondicherry) would submit that the petitioner and the minor victim were colleagues in a departmental store. The petitioner induced the victim girl and on



the promise of marrying her, had taken her from the custody of her guardian. However, he would submit that the trial court had acquitted the petitioner for the offence under section 8 of POCSO Act and the trial court had also suspended the sentence of imprisonment of the petitioner.

7. Heard the learned counsels and perused the materials on record.

8. Taking into consideration of the facts and submissions made, this court is of the opinion that the petitioner has made out a case for grant of suspension of sentence and the sentence of imprisonment can be suspended on certain conditions.

9. Accordingly, till the disposal of the Criminal appeal, the reliefs of suspension of sentence and bail are granted to the petitioner/accused, on the following conditions :-

i. The petitioner is ordered to be released on bail on condition to execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Special Judge, Puducherry within 15 days from the date of commencement of the court's normal functioning, failing which the bail granted by this court shall be dismissed automatically and on further condition that:

ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

10. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-

25/01/2022

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,
PUDUCHERRY.



2 THE STATION HOUSE OFFICER,
D NAGAR POLICE STATION,
PUDUCHERRY.

3 THE PUBLIC PROSECUTOR
PUDUCHERRY.

+1C.C. to M/S.V.S.SENTHILKUMAR Advocate on payment of necessary
charges SR.No.1157

Order
in
CRL MP.14028/2021
in
CRL A.701/2021
Date :25/01/2022

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CSK 27/01/2022