



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

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WEB COPY

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.14022 of 2021

in

Crl.A.No.697 of 2021

1.Nirmal Premkumar

2.Lawrance

... Petitioners/Appellants

Vs.

State of Tamil Nadu Represented by
The Inspector of Police,
All Women Police Station,
Kallakurichi,
Villupuram District.
(Crime No.01of 2018)

... Respondent

PRAYER: The Criminal Miscellaneous Petition is filed under Section 389 (1) of the Code of Criminal Procedure, pleaded to suspend the sentence passed by Sessions Judge, Special Court for Exclusive Trial of Cases under POSCO Act, Villupuram in Spl.S.C.No.13 of 2020 dated 22.11.2021 and released the petitioners on bail.

For Petitioners : Mr.J.Antony Jesus

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

ORDER

(This case has been heard through video conferencing)

This Criminal Miscellaneous Petition has been filed by the petitioners/appellants, seeking suspension of sentence of imprisonment, imposed against the petitioners in Spl.S.C.No.13 of 2020 dated 22.11.2021 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POSCO Act, Villupuram.



2. In and by the judgment of the Trial court, the petitioners was found guilty and convicted and sentenced as follows:-

Accused	Offence u/s	Conviction & Sentence
A1	12 of POCSO, 2012	3 years R.I and to pay a fine of Rs.30,000/-, in default, undergo six months S.I.
A2	506(i) IPC	2 years R.I and to pay a fine of Rs.20,000/-, in default, undergo four months S.I.

against which, the present Criminal Appeal has been filed.

3. Learned counsel appearing for the petitioners would submit that the occurrence would stated to have taken place in a school during school hours. PW6 who was examined by the prosecution, to speak about the incident had turned hostile and the first petitioner had examined himself as DW1 and through him Ex.D1&Ex.D2/FIR's were marked. The Trial Court, failed to take into consideration, Ex.D1 and D2 which are the complaints given earlier and the complaint given by the victim has been given as a counter to the complaint by the school. The Trial Court has also granted suspension of sentence for a period of 30 days and the petitioners have deposited the fine amount before the Trial Court.

4. Learned counsel for the petitioners/appellants would further submit that the petitioners/appellants have got a fair chance of succeeding in the Criminal Appeal. There are arguable points available in the Criminal Appeal, however, as the appeal is not likely to be taken for final hearing in the near future, would pray the sentence imposed against the petitioners/appellants may be suspended and the petitioners may be enlarged on bail.

5. Mr.S.Sugendran, learned Government Advocate (Crl.Side) would submit that the petitioners are teachers in school. On 14.12.2018, the first accused had offered rose, jasmine and dairy milk chocolate to victim and when she refused to receive the same, he had caught hold of her hand and forced to take it, thereafter, he had also pinched the hand of the victim. He would further submit that the second petitioner had called her to the staff room and threatened her. The prosecution has examined PW1 to PW12 and marked Ex.P1 to Ex.P9 and the Trial Court, finding the prosecution has proved its case all reasonable doubts and the accused have found guilty and convicted them as stated above.

6. Heard the learned counsel and perused the materials on record.



7 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners/appellants, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-

(a) Accordingly, the petitioners/appellants are ordered to be released on bail on condition to execute their own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each before the Superintendent of the concerned prison/Jailor concerned, in which the appellants have been confined and thereafter, on their release, the petitioners/Appellants shall execute two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Kallakurihi, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further conditions that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) The petitioners/appellants shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 am., until further orders.

8. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-

27/01/2022

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POSCO ACT,
VILLUPURAM.

2 THE JUDICIAL MAGISTRATE,
NO.2, KALLAKURICHI.



3 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KALLAKURICHI,
VILLUPURAM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S. J.ANTONY JESUS Advocate on payment of necessary
charges

Order
in
CRL MP.14022/2021
in
CRL.A.697/2021
Date :27/01/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

CSK 27/01/2022