



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Twenty Ninth day of September Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11797 of 2022

IN

CRL A(MD) No.599 of 2022

BALAN @ BALAMURUGAN

... PETITIONER / APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
PAVOORCHATHIRAM POLICE STATION,
TENKASI DISTRICT.

... RESPONDENT / RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the Petitioner on bail by suspending the sentence imposed on the Petitioner by the Sessions Court, (Special Court for POCSO Act Cases), Tirunelveli in Spl.SC.No.150 of 2019 dated 30.8.2022 pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.599 of 2022:

To call for record and aside the Judgment made in Spl.S.C.No.150 of 2019 by the Sessions Court, (Special Court for POCSO Act Cases), Tirunelveli dated 30.08.2022.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.VENKATESH.D, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Crl. Side) on behalf of the Respondent, While admitting the Crl.A., the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in Spl.S.C.No.150 of 2019, dated 30.08.2022, on the file of the Sessions Court(Special Court for POCSO Act Cases), Tirunelveli, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that the petitioner had kidnapped the victim girl, who is aged about 17 years and he had sexual intercourse with her. Hence, the complaint.

3. The respondent police, after completing the investigation, has filed the final report and after committal, the case was taken on file in Spl.S.C.No.150 of 2019 on the file of the learned Sessions Judge, Sessions Court(Special Court for POCSO Act Cases), Tirunelveli,

4. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the judgment dated 30.08.2022 convicting the petitioner/accused for the offence under Section 366 IPC and sentenced him to undergo three years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months Rigorous Imprisonment. The Trial Court has suspended the sentence imposed on the petitioner from the date of pronouncing judgment to 27.09.2022. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

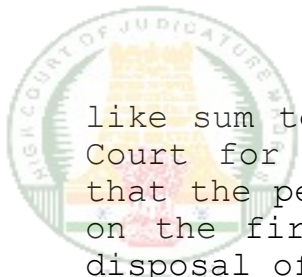
5. The learned counsel for the petitioner submitted that before conviction, the petitioner married the victim girl, out of wedlock, they were blessed with a girl child and now they are living together happily.

6. The learned Government Advocate(Crl.side) appearing for the respondent concedes the submission of the petitioner and also would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8. The learned counsel for the petitioner pointed out that before conviction the petitioner married the victim girl and now they are living together happily. Having regard to the fact that there are arguable points involved in the appeal case and further, the appeal case is not likely to be taken up for final hearing in the near future and also considering the fact the petitioner is already enlarged on bail by the trial Court, I am of the considered opinion that the petitioner is entitled for the relief of suspension of sentence.

9. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that the petitioner shall execute a 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 Sessions Court (Special Court for POCSO Act Cases), Tirunelveli, and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending disposal of the appeal.

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sd/-
29/09/2022

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29/09/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDGE,
SESSIONS COURT, (SPECIAL COURT FOR POCSO ACT CASES),
TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE
PAVOORCHATHIRAM POLICE STATION,
TENKASI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.11797 of 2022
IN
CRL A(MD) No.599 of 2022
Date :29/09/2022

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MK/VR/SAR.I/29.09.2022/3P/4C