



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twentieth day of January Two Thousand and Twenty Three

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.16503 of 2022

in

CRL.A.(MD)No.891 of 2022

THRAVIYEM

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THALLAKULAM,
MADURAI DISTRICT.
(CRIME NO.41/2018)

... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Execution of sentence by granting bail in Special SC No.130/2018 dated 19.12.2022 on the file of the Sessions Judge and Principal Special Court for exclusive trial of cases under POCSO Act, Madurai District till the disposal of the Criminal Appeal.

PRAYER IN CRL.A.(MD)No.891 of 2022:

To admit this appeal on file, to call for the records from the lower court in Special S.C.No.130/2018 on the file of Sessions Judge & Principal Special Court for exclusive trial of cases under POCSO Act, Madurai District and set aside the judgment dated 19.12.2022 by acquitting the accused and by allowing the appeal.

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. PRABHU.K, Advocate for the petitioner and of M/S.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the conviction and sentence imposed against the petitioner in Special S.C.No.130 of 2018, dated 19/12/2022 by the Special Judge and Principal Special Court for exclusive trial of cases under POCSO Act, Madurai District and enlarge the petitioner on bail pending disposal of the criminal appeal.



2. The case of the prosecution in brief:-

On 21/07/2018 at about 10.30 am, when the victim girl, who is aged about 9 years, after playing with her friends returned back to her home, at that time, the accused had lifted his lungi and showed his genital organ to her and further pulled the hands of the victim. Based upon the complaint given by the mother of the victim, the case was registered in Crime No.41 of 2018. After completing the investigation process, final report was filed for the offences punishable under sections 9(m) r/w 10, 11(i)(ii) r/w 12 of POCSO Act, 2012 and it was taken cognizance by the trial court in Special SC No.130 of 2018.

3. During trial process, on the side of the prosecution, 10 witnesses were examined and 10 documents marked. On the side of the accused, one witness was examined and no document was marked. One document was marked as court document.

4. At the conclusion of the trial, the trial court found the petitioner guilty and sentenced him to undergo 5 years R/I and imposed a fine of Rs.2,000/- with default clause for the offence under section 9(m) r/w 10 of the Protection of Children from Sexual Offence Act, 2012; and to undergo 3 years R/I and imposed a fine of Rs.5,000/- with default clause for the offence under section 11(i)(ii) r/w 12 of the Protection of Children from Sexual Offence Act, 2012 and directed the petitioner to run the sentence of imprisonment concurrently.

5. Challenging the above said conviction and sentence, criminal appeal has been preferred before this court. Pending appeal, this miscellaneous petition has been seeking suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that now the petitioner's age is about 73 years and is taking treatment for his kidney ailment and he is also regularly taking insulin. He would also further submit that there might have some sort of mental imbalance at the time of alleged occurrence, except that, no bad antecedent is reported against him.

7. Reading of the evidence of the victim shows that on more than one occasions, this petitioner misbehaved with her. Whether the above said act of the petitioner is due to mental imbalances was not brought on record during the course of the trial. It is a matter for consideration in the main appeal. No witness was also examined on the side of the petitioner. Even though, the petitioner is in the advanced stage, the judgment of the trial court is a recent origin I.e., on 19/12/2022, the petitioner can revive the suspension petition after a reasonable time.



8.In the result, this criminal miscellaneous petition is **dismissed.**

sd/-
20/01/2023

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/02/2023

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

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TO

1.THE SESSIONS JUDGE AND
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, MADURAI DISTRICT.

2.THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THALLAKULAM,
MADURAI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

+1. C.C. to M/S. PRABHU.K Advocate SR.No.3025 (F)

ORDER

IN

CRL.M.P. (MD) No.16503 of 2022
in

CRL.A. (MD) No.891 of 2022

Date :20/01/2023

RK/BUC/SAR-3 (20/02/2023) 4P/6C