

[3368]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

FRIDAY, THE TWENTY SEVENTH DAY OF FEBRUARY

TWO THOUSAND AND TWENTY SIX

:PRESENT:

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

IA No. 1 OF 2023

IN

CRLA NO: 325 OF 2023



Between:

Dhayana Koteswara Rao @ Kotesw, S/o.Veera Swamy, Hindu, aged 60 years, Mala, Harijanawada, Kolavennu Village, Kankipadu Mandal, Krishna Dt., .

Petitioner/Appellant/Accused

AND

1. The State of Andhra Pradesh, Rep. by its Public Prosecutor, High Court of Andhra Pradesh State.

Respondent

Counsel for the Petitioner : SRI B ASHOK KUMAR

Counsel for the Respondent: PUBLIC PROSECUTOR (AP)

Petition Under Section 389 (1) of CrI.P.C is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of sentence by way of releasing the petitioner on bail in S.C. No. 256/2019 (Old SC No.8/2016).dt.06-03-2023 on the file of the Special Judge for Speedy Trial of Offences under Protection of Children from Sexual Offences Act, at Vijayawada., and pending disposal of CRLA No. 325 of 2023, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case). The Court made the following

ORDER:

“Heard Sri B.Ashok Kumar, learned counsel for the petitioner/convict and the learned Additional Public Prosecutor representing the respondent/State.

2. The petitioner/appellant is the sole Accused in S.C. No.256 of 2019 (Old S.C.No.8/2016) on the file of the learned Special Judge for Speedy Trial of Offences under POCSO Act, Vijayawada.

3. The learned counsel for the petitioner would submit that the petitioner was found guilty of the offence U/s.10 of POCSO Act. Accordingly, he was convicted under Section 235(2) Cr.P.C. as follows:

(a) For the offence punishable under Section 10 of POCSO Act, the petitioner was sentenced to undergo rigorous imprisonment for a period of five (05) years and to pay fine of Rs.5,000/- (Rupees Five Thousand only), in default, shall suffer simple imprisonment for a period of three (03) months.

4. The learned counsel for the petitioner would further submit that the learned trial Court erroneously convicted the petitioner/appellant without appreciating the facts in proper perspective. Hence, the petitioner/appellant preferred the appeal challenging the judgment of the trial Court on various grounds. He would further submit that the sentence imposed by the learned trial Court is a fixed sentence for a period of five (5) years; that there are fair chances of succeeding in the appeal; and that there is no likelihood of the appeal being taken up in the near future. He further submits that the petitioner/appellant were lodged in Central Prison, Rajahmundry since the date of judgment i.e., 06.03.2023. Therefore, the petitioner served three years of sentence, out of five years of sentence. The learned counsel for the petitioner would further submit that the petitioner/appellant paid the fine amount and that the original receipt was filed along with the grounds of appeal.

5. Considering the above facts and circumstances, it is prayed that the order of sentence imposed by the trial Court may be suspended, pending disposal of the appeal.

6. The learned Additional Public Prosecutor opposed the application and no written objections filed opposing the application.

7. Considering the above facts and circumstances, and as the sentence imposed by the learned trial Court is a fixed sentence of five (5) years, and as the petitioner already served three years of sentence, and as the petitioner paid the fine amount and as there is no likelihood of the appeal being taken up in the near future, this Court is of the considered opinion that “the order of sentence of imprisonment alone imposed by the learned Special Judge for Speedy Trial of Offences under POCSO Act, Vijayawada, vide judgment dated 06.03.2023 passed in S.C. No.256 of 2019 (Old S.C.No.8/2016) against the petitioner/appellant, be suspended, pending disposal of the appeal, subject to the following conditions”

i) The petitioner/appellant shall be enlarged on bail on executing a personal bond for Rs.20,000/- (Rupees Twenty Thousand only), with two (02) sureties for a like sum each, to the satisfaction of the learned Special Court.

ii) On such release, the petitioner/appellant shall appear before the learned Special Court on every fourth Saturday of the month until disposal of the appeal.

iii) The petitioner/appellant shall not intimidate or annoy or contact the victim or her family members in any manner.

iv) The petitioner/appellant shall not leave the country without prior permission of the Court.

v) If the petitioner/appellant violates any of the above conditions, the prosecution is at liberty to file an application seeking cancellation of bail.

8. Accordingly, the application is ordered.”

//TRUE COPY//

For ,

SD/- M.SRINIVAS
ASSISTANT REGISTRAR
SECTION OFFICER

To,

1. The Special Judge for Speedy Trial of Offences under Protection of Children from Sexual Offences Act, at Vijayawada.
2. The Superintendent, Central Jail, Rajahmundry.

3. One CC to SRI. B ASHOK KUMAR Advocate [OPUC]
4. Two CC's to Public Prosecutor, High Court of AP at Amaravati. [OUT]
5. **One spare copy**

HIGH COURT

BVLNC,J

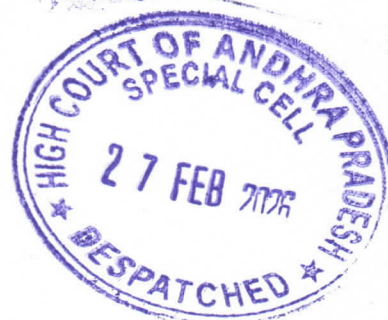
DATED: 27/02/2026

ORDER

IA 1 OF 2023

IN

CRLA.No.325 of 2023



ALLOWED