

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Tenth day of October Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL MISCELLANEOUS PETITION No.12508 of 2018

IN CRL A.No.416/2018

GAJENDIRAN

[PETITIONER/APPELLANT]

Vs

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VELLORE DISTRICT
CRIME NO.50 OF 2014.

[RESPONDENT/RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.416 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the Fast Track Mahila Court (Sessions Judge) at Vellore in Spl.S.C.No.31 of 2015 dated 07.07.2018 and to enlarge the petitioner on bail pending disposal of the present CRL.A.No.416 of 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.416 of 2018 on the file of the High Court and upon hearing the arguments of MR.R.SINGARAVELAN Senior Counsel for M/S.R.JAYAPRAKASH, Advocate for the petitioner and of V.SARATHADEVI GOVERNMENT ADVOCATE on behalf of the Respondent the court made the following order:-

The learned counsel for the petitioner has submitted that the Petitioner/Accused is convicted under Section 8(2 counts) of POSCO Act, and Section 354(A) (i) of IPC. In view of the sentence passed under Section 8 (2 counts) of the said Act and no separate sentence was awarded for the IPC and for conviction in respect of POSCO Act, he was awarded Rigorous Imprisonment for four years (2 counts) and to pay fine of Rs.2000/- each and accused seeks suspension of sentence.

2. Learned counsel for the petitioner has drawn my attention to the medical evidence of P.W-10 Dr.Priya Vasanthakumari and also the evidence of P.W.2. The learned counsel has also drawn my attention to the evidence of P.W.1 and P.W.4, namely the mother and the father respectively with that of evidence of P.W-2 and P.W 3, the victim girls. The learned counsel contented that there is material contradiction with regard to the alleged occurrence and manner of the occurrence and its disclosure by the minors.

3. Per contra, the learned Government Advocate (Crl.Side) has made her submissions in support of the judgement of the trial Court.

4. On consideration of both submissions by the Senior Counsel for the petitioner and the learned Government Advocate (Crl.Side) for the State and also in view of the certain contradiction in the evidence and submitted that for the alleged offence under Section 8(2 counts) of POCSO Act, medical corroboration need not be insisted upon, in view of the listed offence under Section 8(2 counts) of POCSO Act.

5. Taking into consideration the material contradiction said have been present in the evidence of victim girls P.W-2 and P.W.3 with that of the evidence of P.W.1 and P.W.4 coupled with the evidence of P.W.10 and also taking note of the period of incarceration of the petitioner by the trial Court and also after trial, I am inclined to grant the suspend the sentence.

6. Accordingly, the substantiate sentence of imprisonment alone is suspended and the petitioner shall be released on bail on his executing a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the trial Court and on further condition that the petitioner shall report before the trial Court on the first working day of every week at 10.30 a.m., until further orders.

-sd/-
10/10/2018

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.

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TO

1 THE FAST TRACK MAHILA COURT
(SESSIONS JUDGE), VELLORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VELLORE DISTRICT

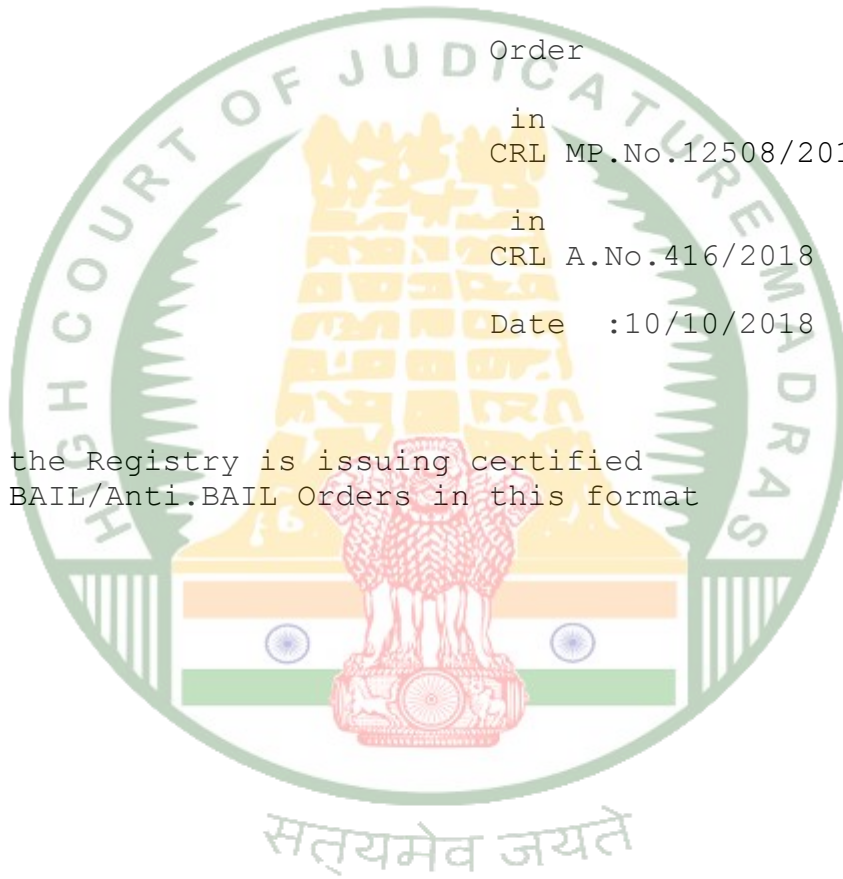
4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

+1C.C. to M/S.R.JAYAPRAKASH Advocate on payment of necessary
charges SR.NO. 19071

Order
in
CRL MP.No.12508/2018
in
CRL A.No.416/2018
Date :10/10/2018

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

cm 11/10/2018



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