

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.16211 of 2018

in CRL.A.NO.780/2017

SENDHIL KUMAR

[PETITIONER/ACCUSED]

vs

STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (WEST),
COIMBATORE CITY.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.780 OF 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed by the Mahila Court, Coimbatore in Spl. C.C.No.32/2015 dated 25.07.2017 and enlarge the appellant/accused on bail pending disposal of the Crl.A.780/2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.780 of 2017 on the file of the High Court and upon hearing the arguments of M/S.V.HALLEL BEN, Advocate for the petitioner and of Mrs.V.SARATHA DEVI, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

The petitioner/appellant is the sole accused in Spl.S.C.No.32 of 2015, on the file of the Sessions Judge, Magalir Needhimandram (Mahila Court), Coimbatore. By judgment dated 25.7.2017, the trial Court has convicted the appellant for offence under Section 366 of the Indian Penal Code; under Section 9 of Prevention of Child Marriage Act and Section 3(a) r/w. Section 4 of Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for brevity). The maximum punishment imposed upon the petitioner is 10 years Rigorous Imprisonment under the POCSO Act, with usual default clause. Hence, the petitioner seeks suspension of sentence.

2.The learned counsel for the petitioner/appellant pointed out that there are certain holes in the prosecution case while convicting the accused under the provisions of the POCSO Act and the petitioner/appellant was sentenced to undergo Rigorous Imprisonment for ten years. He would further submit that the petitioner is languishing in jail for the past one year and eight months and he is also suffering from illness. The learned counsel for the petitioner

would also point out certain infirmities and lacuna in the case of the prosecution, since both the petitioner and the victim girl were in relationship, as they belong to the same neighbourhood. The petitioner has not committed any offence, as projected by the prosecution, is the contention raised by the learned counsel. There are material contradictions in the prosecution case and there are arguable points involved in the appeal. Therefore, the learned counsel prays for suspending the sentence.

3. In view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

4. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that he 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 Judge, Magalir Neethimandram (Mahila Court), Coimbatore, and on further condition that the petitioner shall report before the trial Court daily at 10.30 a.m., pending disposal of the appeal.

-sd/-

04/12/2018

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.

TO

1 THE SESSIONS JUDGE,
MAGALIR NEETHIMANDRAM (MAHILA COURT),
COIMBATORE.

2 THE MAHILA COURT,
COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (WEST),
COIMBATORE CITY.

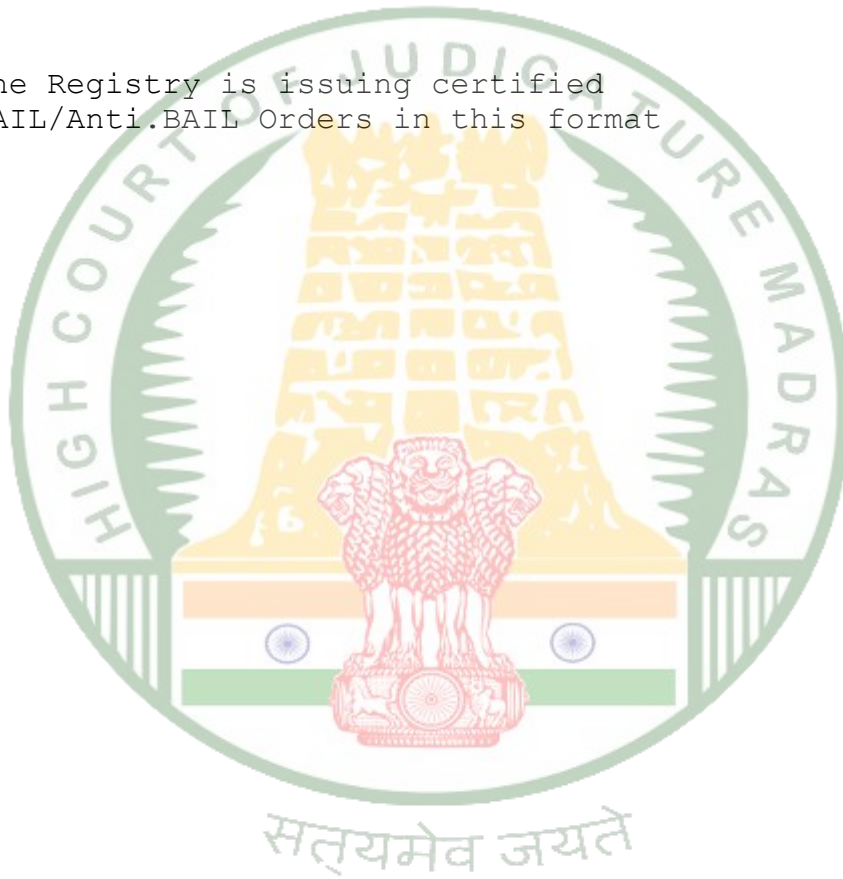
+1 C.C. to M/S.V.HALLEL BEN Advocate on payment of necessary charges-Sr.23164

Order

in
CRL MP.16211/2018
in CRL.A.NO.780/2017

Date :04/12/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
ths : 06.12.2018



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