

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Seventeenth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL MISCELLANEOUS PETITION No.17306 of 2018

IN CRL A.828/2018

RENUKA SEKAR

[PETITIONER/APPELLANT/ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
SPE/ CBI: SBI:CHENNAI.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.828 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the operation of the sentence passed in Judgment dated 10.10.2018 in C.C.No.16 of 2009 on the file of IX Additional Special Judge for CBI CASES in the XIII Additional Special Court for CBI Cases, Chennai pending disposal of the Crl.A.No.828/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.828 of 2018 on the file of the High Court and upon hearing the arguments of MR.S.MURUGAPPAN, Advocate for the petitioner and of MR. K.SRINIVASAN, SPECIAL PUBLIC PROSECUTOR FOR CBI CASES, on behalf of the Respondent the court made the following order:-

The petitioner was convicted for an offence punishable under Section 120B r/w 420 IPC and sentenced her to undergo one year Rigorous Imprisonment for the offence under Section 120B IPC r/w 420 IPC and to undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default to undergo six months Simple Imprisonment for the offence under Section 420 IPC. The learned Additional Special Judge, XIII Additional Special Court for CBI Cases, Chennai has ordered the above sentences to run concurrently in C.C.No.16 of 2009, by judgment dated 10.10.2018. Hence, the petitioner seeks suspension of sentence.

2. The learned counsel appearing for the petitioner would submit that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in

availing the relief of suspension of sentence under Section 397 Cr.P.C. In exercise of revisional powers by this Court, the decisions of the Hon'ble Apex Court in **BIHARI PRASAD SINGH vs. STATE OF BIHAR AND ANOTHER [2000 SCC (Cri) 1360]** and that of the **IBRAHIM vs. STATE OF KERALA [1979 KLT 857]** are relied upon in this regard.

3. Heard the learned Special Public Prosecutor (CBI Cases) on the submissions made by the learned counsel for the petitioner.

4. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Appeal.

5. Therefore, 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 the learned counsel for the petitioner and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. 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 Additional Special Judge, XIII Additional Special Court for CBI Cases, Chennai, 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 appeal.

7. Notice

-sd/-

17/12/2018

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 ADDL. SPECIAL JUDGE,
XIII, ADDITIONAL SPECIAL COURT FOR CBI CASES,
CHENNAI.

2 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES, HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CENTRAL BUREAU OF INVESTIGATION,
SPE CBI SBI CHENNAI.

+1 C.C. to M/S.S.MURUGAPPAN Advocate on payment of necessary
charges SR.No. 24155

Order

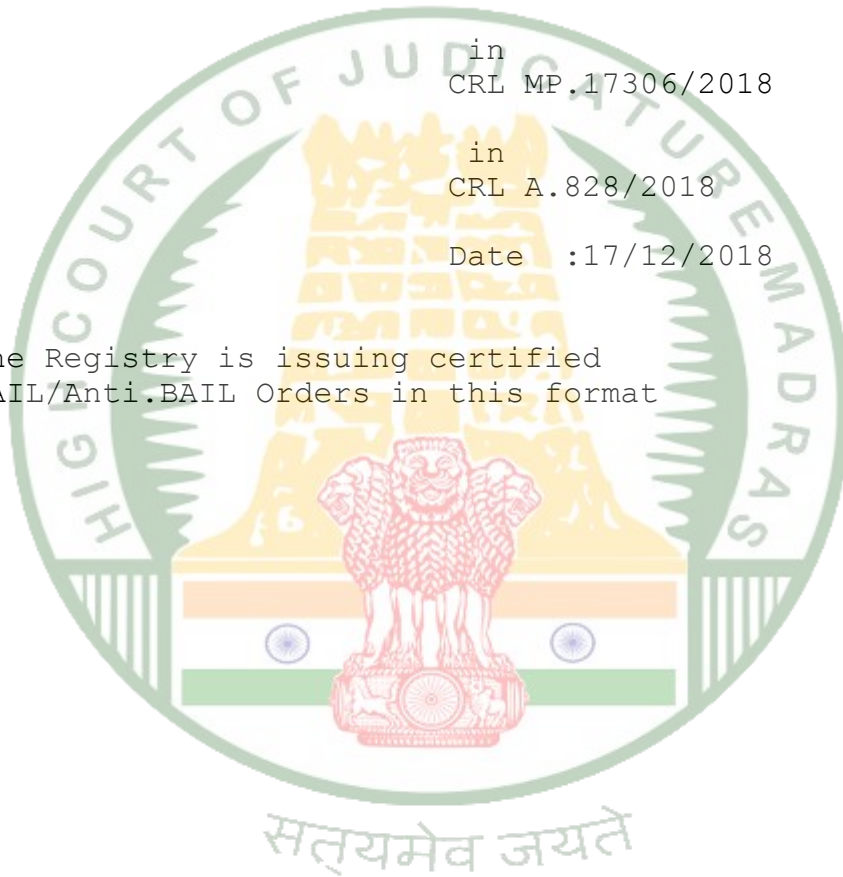
in
CRL MP.17306/2018

in
CRL A.828/2018

Date :17/12/2018

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

ths-18/12/2018



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