

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of January Two Thousand Nineteen

PRESENT

The Hon'ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION Nos.2917 & 2919 of 2018

IN CRL RC.262/2018

K.RAJA,

[PETITIONER/ACCUSED

IN BOTH THE PETITIONS]

Vs

THE STATE BY,
INSPECTOR OF POLICE,
GUDIATTAM TOWN POLICE STATION,
VELLORE DISTRICT.
CR.NO.325 OF 2010

[RESPONDENT IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC. No.262 OF 2018 on the file of the High Court, the High Court will be pleased to

(1) suspend the sentence of imprisonment imposed in the judgment dated 21.12.2016 in C.C.No.208 of 2010 on the file of the Judicial Magistrate, Gudiyattam and confirmed in the judgment dated 10.10.2017 in C.A.No.6 of 2017 on the file of the Principal District and Sessions Judge, Vellore and enlarge the petitioner on bail pending disposal of the above Revision Petition before this Hon'ble Court. (CRL.MP.2917/2018 IN CRL.RC.262/2018)

(2) exempt the petitioner herein from surrendering in C.C.No.208 of 2010 on the file of the Judicial Magistrate, Gudiyattam and confirmed in the judgment dated 10.10.2017 in C.A.No.6 of 2017 on the file of the Principal District and Sessions Judge, Vellore, pending disposal of the above Revision Petition before this Hon'ble Court. (CRL.MP.2919/2018 IN CRL.RC.262/2018)

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.262 of 2018 on the file of the High Court and upon hearing the arguments of M/S.A.THIYAGARAJAN, Advocate for the petitioner (IN BOTH THE PETITIONS) and of Mr.G.HARI HARA ARUN SOMASANKAR, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

The petitioner is the sole accused in C.C.No.208 of 2010, on the file of the learned Judicial Magistrate, Gudiyattam, Vellore. By judgment dated 21.12.2016, the trial Court has convicted him for

offence under Sections 279, 337 and Section 304(A) of the Indian Penal Code, and the maximum punishment imposed upon him is simple imprisonment for two years for each death, for offence under Section 304(A) IPC. The said conviction and sentence were confirmed on appeal by the Principal District Sessions Court, Vellore, in CrI.A.No.06 of 2017, vide judgment dated 10.10.2017. Hence, the petitioner filed the present revision and pending revision, he seeks for suspension of sentence.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.side) appearing for the State.

3. It is submitted by the learned Government Advocate that a non bailable warrant has now been issued against the petitioner and hence the petitioner/accused may be directed to surrender before the Court below and get the Non-Bailable Warrant recalled.

4. The learned counsel for the petitioner would submit that the petitioner is aged 35 years and he has no bad antecedents. After the occurrence also he has not shown any deviance from the law. The learned counsel would also point out certain infirmities and lacunae in the case of the prosecution. 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 revision. The learned counsel would also submit that the petitioner was on bail during the trial and appeal and he was regularly appearing before the Court below. However, the appellate Court, in its judgment, has observed that after the appeal period, appropriate action be taken to execute the sentence imposed on the petitioner. Therefore, the learned counsel would implore that since the appeal period is over and Non-bailable Warrant has also been issued against the petitioner, the petitioner is ready to surrender before the trial Court and will also abide by the conditions imposed by this Court. Accordingly, he would pray for suspending the sentence.

5. In view of the submissions made by the learned counsel on both sides, this Court is inclined to suspend the sentence and enlarge the petitioner on bail. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is enlarged on bail on the following conditions:

(i) The petitioner shall surrender before the trial Court and file an application to recall the Non-Bailable Warrant issued against him;

(ii) In such an event, the trial Court is directed to consider the said application and pass orders on the same day.

(iii) 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 Judicial Magistrate, Gudiyattam,

(iv)The petitioner shall report before the trial Court once in a month, i.e. on the first working day of every month at 10.30 a.m., pending disposal of the revision case.

Accordingly these petitions are closed.

-sd/-
25/01/2019

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 JUDICIAL MAGISTRATE,
GUDIYATTAM.

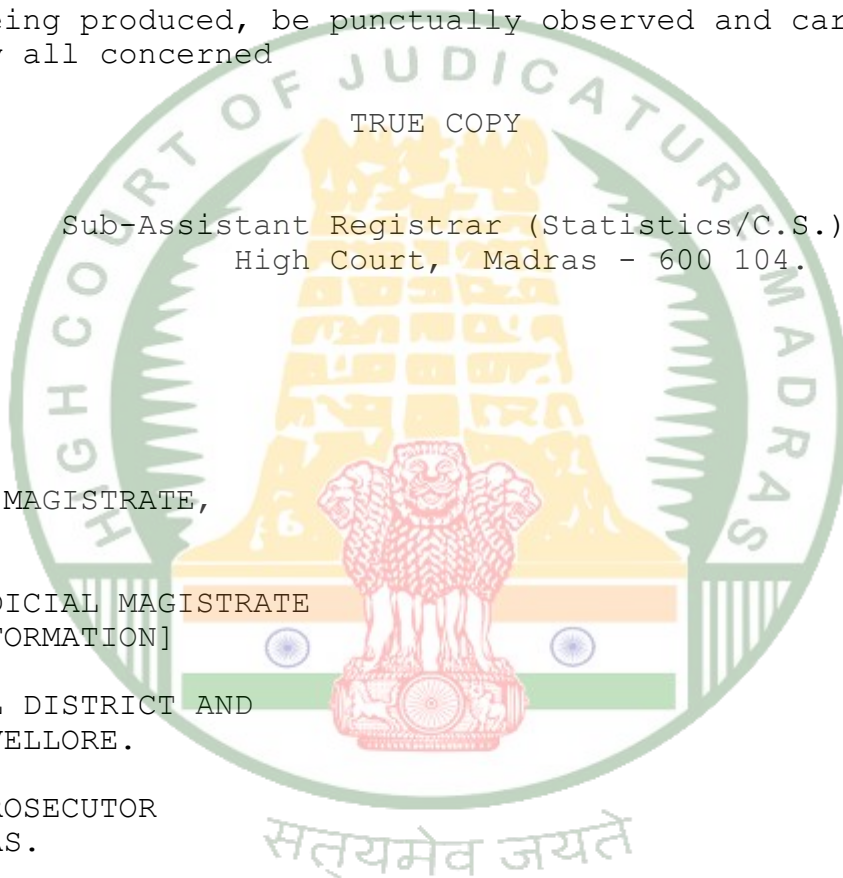
2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
GUDIATTAM TOWN POLICE STATION,
VELLORE DISTRICT.

+1 C.C. to M/S.A.THIIYAGARAJAN Advocate on payment of necessary charges-Sr.1655



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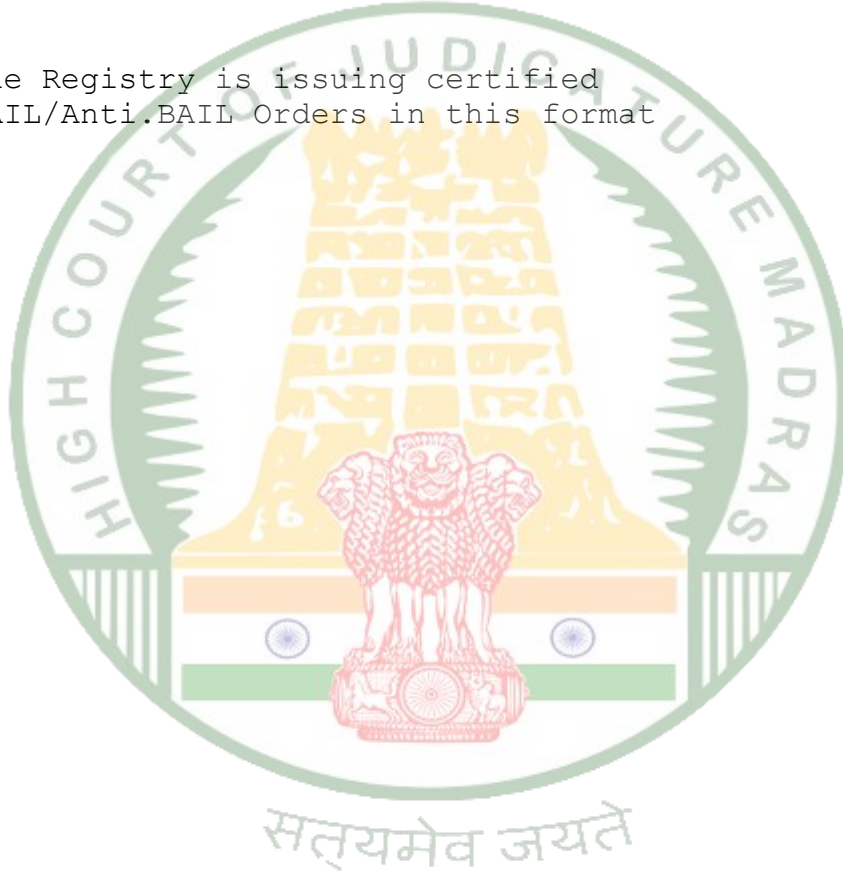
Order

in
CRL MP.Nos.2917 & 2919/2018

in
CRL RC.262/2018

Date :25/01/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
THS : 28.01.2019



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