

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Ninth day of August Two Thousand Nineteen

PRESENT

The Hon'ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.6593 of 2019

IN CRL.A.No.251 of 2019

SYED

[PETITIONER/APPELLANT]

Vs

THE STATE, REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PANRUTI.
CR.NO.33/2015.

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence of 12 yrs RI vide judgment dated 12.03..2019 passed against him under Section 6 of POSCO Act by the Learned Sessions Judge, Mahila Court, Cuddalore in Special Sessions Case No.12/2016 in Crl.A.No.251 of 2019 and enlarge him on bail.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.A.ABDUL LATHIF, Advocate for the petitioner, and of MRS. M.PRABHAVATHI, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

It is the case of the prosecution that the petitioner developed physical intimacy with a 15 year old girl (for brevity and for the sake of anonymity referred to as "X"), lived with her, repeatedly committed penetrative sexual assault on her, made her pregnant, fathered a female child that was born to her on 27.01.2014 and abandoned her.

2 On these allegations, the petitioner faced prosecution in Spl. S.C. No.12 of 2016 before the Mahila Court, Cuddalore and was convicted of the offence under Section 6 of the POCSO Act and sentenced to undergo 12 years rigorous imprisonment and pay a fine of Rs.15,000/-, in default to undergo simple imprisonment for two years.

3 Challenging the aforesaid conviction and sentence, the petitioner has filed the instant criminal appeal and is seeking suspension of sentence and bail in the present miscellaneous petition.

4 Heard Mr. Abdul Lathif, learned counsel for the petitioner and Mr.G.Ramar, learned Government Advocate (Crl. Side) appearing for the respondent State.

5 The learned counsel for the petitioner submitted that the petitioner was a minor when he is alleged to have committed the offence and therefore, the entire trial stands vitiated. The petitioner's plea that he was a juvenile when the offence is said to have been committed, has been considered by the Trial Court threadbare. The petitioner was initially prosecuted before the Juvenile Justice Board, Cuddalore. But, the Board found that he was a minor when he commenced the sexual exploitation on "X", who was 15 years old, but, continued to exploit her even after he attained the age of 18 years on 27.02.2015. Ergo, the Juvenile Justice Board referred the matter to the Special Court for POCSO Act Cases for regular trial by order dated 09.11.2016. The order dated 09.11.2016 was challenged by the petitioner in Crl.R.C. No.839 of 2017 and this Court upheld the order of the Juvenile Justice Board on 31.05.2018. Only thereafter, the trial commenced and the petitioner has been convicted and sentenced as aforesaid. The evidence of "X", who was 15 years of age, clearly shows that the petitioner had sexually assaulted her and predated her.

6 In the light of such overwhelming evidence against the petitioner, this Court is of the view that this is not a fit case for grant of suspension of sentence and bail.

In the result, this criminal miscellaneous petition is dismissed.

-sd/-

09/08/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
MAHILA COURT, CUDDALORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PANRUTI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.A.ABDUL LATHIF Advocate on payment of necessary
charges SR.NO.16940

Order

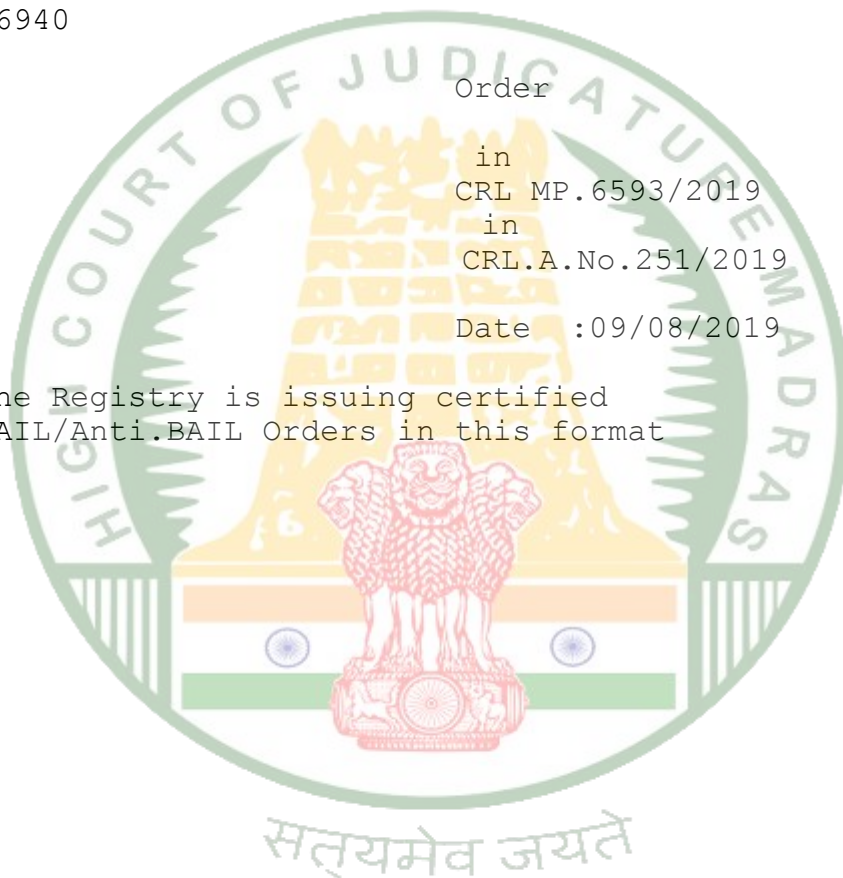
in
CRL MP.6593/2019

in
CRL.A.No.251/2019

Date :09/08/2019

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TA-22/08/2019



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