

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.7030 of 2019

IN CRL A.317/2019

ASHOK KUMAR

[PETITIONER]

Vs

THE INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU,
SOUTH ZONAL UNIT,
CHENNAI - 90.

[RESPONDENT]

(R.R.NO.20/2009,NCB F.NO.48/1/3/2009-NCB/MDS

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.317 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner by judgment dated 08.04.2019 passed in CC No.39/2009 on the file of the learned Special Judge, II Additional Special Court under NDPS Act, Chennai-104 and enlarge the petitioner on bail pending disposal of the above Crl.A.No.317 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.317 of 2019 on the file of the High Court and upon hearing the arguments of M/S.RAVIKUMAR G., Advocate for the petitioner and of MR. N.P.KUMAR, SPECIAL PUBLIC PROSECUTOR FOR NCB CASES, on behalf of the Respondent the court made the following order:-

(Order of the Court was made by M.M.SUNDRESH,J)

Seeking to suspend the sentence imposed by the judgment dated 08.04.2019 passed in CC No.39 of 2009 on the file of the learned Special Judge, II Additional Special Court under NDPS Act, Chennai, the present petition has been filed.

2. The learned counsel appearing for the petitioner has submitted that for the very same occurrence, the second case has been foisted. The material contradiction with respect to locker has been treated as a trivial one. The locker has been mentioned in one place as Locker No.1 and in the other place as Locker No.B1. The conviction rendered in the first case cannot be imported in the present case. The petitioner has been under incarceration for more than ten years. Thus, the petition will have to be allowed.

3. The learned Special Public Prosecutor appearing for the respondent submitted that the trial Court considered the submission of the petitioner with respect to the existence of the locker, followed by recovery. It is not as if the facts involved in both cases are the one and the same. In the present case, the offence is distinct and different. Therefore, the petition will have to be dismissed.

4. We are not inclined to allow this petition at this stage. Admittedly, the trial Court took into consideration the deposition of Bank Manager - P.W.4 and witness to the proceedings -P.W.6 apart from the statement made by the petitioner. The issues raised will have to be decided in the appeal. Hence the miscellaneous petition stands dismissed.

Post the main appeal for hearing on 24.09.2019. In the meanwhile, Registry is directed to make the papers ready.

-sd/-
22/07/2019

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 SPECIAL JUDGE,
II ADDITIONAL SPECIAL COURT UNDER NDPS ACT,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON-1,
PUZHAL, CHENNAI.

3 THE SPECIAL PUBLIC PROSECUTOR
FOR NCB CASES, HIGH COURT,
MADRAS.

4 THE INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU,
SOUTH ZONAL UNIT,
CHENNAI - 90.

5 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT,MADRAS.

C.C. to M/S.RAVIKUMAR G. Advocate on payment of necessary
charges SR.NO.14970

Order
in

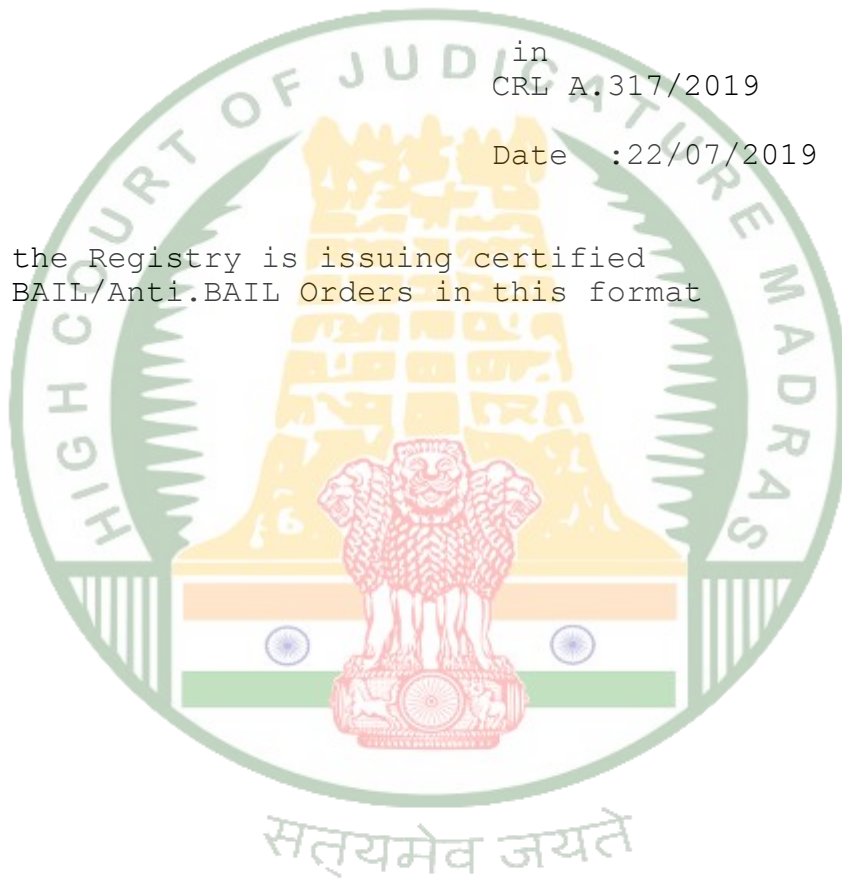
CRL MP.7030/2019

in
CRL A.317/2019

Date :22/07/2019

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

RVR 30/07/2019



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