

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fourth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.16824 of 2018

IN CRL.A.NO.106 OF 2018

BHARATHI

[PETITIONER]

Vs

THE STATE REP. BY ITS [RESPONDENT]
THE INSPECTOR OF POLICE,
VELLITHIRUPPUR POLICE STATION,,
ANTHIYUR, ERODE DISTRICT.
CR.NO.10 OF 2013

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.106/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in S.C.No.133 of 2013 dt 08.04.2014 on the file of the Learned Sessions Judge, Mahila Court at Erode and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal petition.[CRL.MP.NO.16824/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.106/2018 on the file of the High Court and upon hearing the arguments of M/S.R.NARAYANAN 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 S.C.No.133 of 2013, on the file of the Sessions Judge, Mahila Court, Erode. By judgment dated 08.04.2014, the trial Court has convicted the appellant for offence under Section 3 r/w. Section 4 of the 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 five years and half of the sentence period has already been served out by the petitioner/appellant. The learned counsel for the petitioner would also point out certain infirmities and lacunae in the case of the prosecution. He would submit that the petitioner has not committed any offence, as projected by the prosecution. 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 District Sessions Mahila Court, Erode, and on further condition that the petitioner shall report before the trial Court daily once in a week i.e. on every monday at 10.30 a.m., pending disposal of the appeal.

-sd/-
04/01/2019

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 DISTRICT SESSIONS
MAHILA COURT, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

3 THE SESSIONS JUDGE
MAHILA COURT AT ERODE

4 THE INSPECTOR OF POLICE,
VELLITHIRUPPUR POLICE STATION,
ANTHIYUR, ERODE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.R.NARAYANAN Advocate on payment of necessary
charges SR.NO. 724

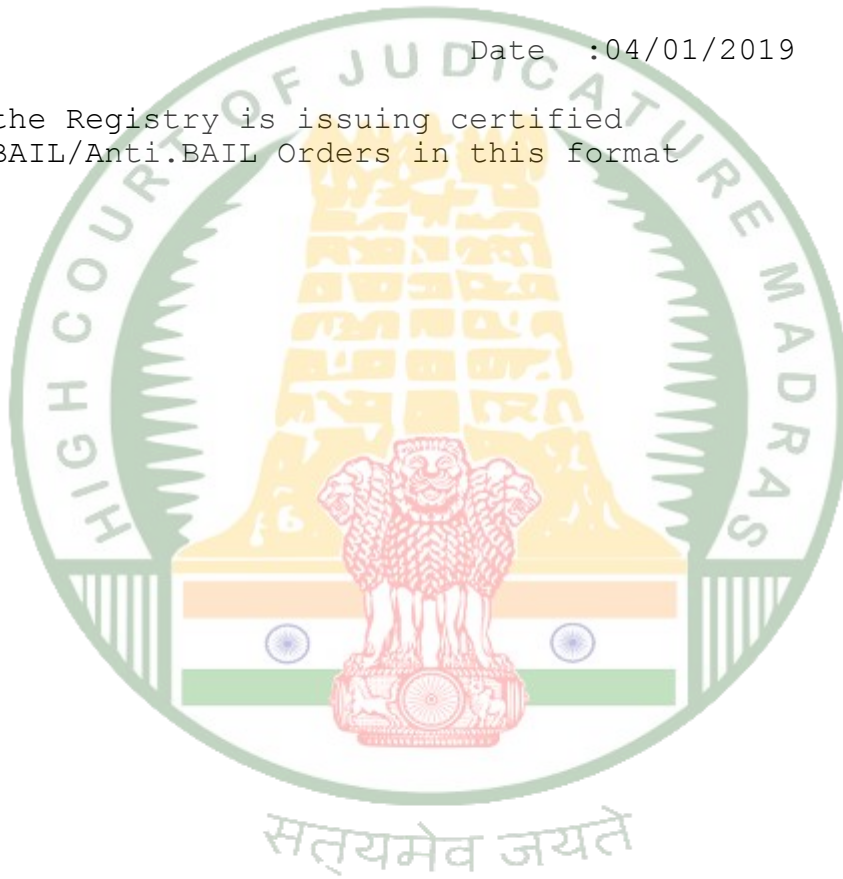
Order

in
CRL MP.16824/2018

IN CRL.A.NO.106 OF 2018

Date :04/01/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 08/01/2019



WEB COPY