

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.M.P.No.5287 of 2020

in

CrI.A.No.349 of 2020

M.Rajadurai

..Petitioner /Appellant/Accused

Vs.

State, Rep by
The Inspector of Police
All Women Police Station
Omalur, Salem.
Crime No.31 of 2018.

... Respondent/Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389(1) and 439 of Cr.P.C., praying to enlarge the petitioner/appellant on bail, by suspending the sentence imposed in Old S.C.No.38 of 2019, New S.C.No.237 of 2019, dated 20.08.2020, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem, pending disposal of the above appeal.

For Petitioner : Mr.K.Sathish Kumar

For Respondent : Mrs.P.Kritika Kamal
Govt. Advocate (CrI. Side)

ORDER

This case is taken up through video conferencing.

2. This petition has been filed seeking to enlarge the petitioner/appellant on bail, by suspending the sentence imposed on him by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem, in Old S.C.No.38 of 2019, New S.C.No.237 of 2019, vide order dated 20.08.2020.

3. It is the case of the prosecution that on 01.12.2018, the petitioner had eloped with the victim girl "X" (name not divulged for the sake of anonymity), who was below 18 years of age. However, the girl had returned home on 02.12.2018, but on the complaint given by the mother of the victim girl on 03.12.2018, FIR was registered on 31.12.2018 in Crime No.31/2018 on the file of the respondent police. The girl was examined as P.W.2 and in her evidence, she has stated that she and the petitioner were in love with each other and she wanted to marry him. However, she was told that he will marry her after she attains majority. Since, her parents had indulged in

fixing her marriage, she insisted the petitioner to take her with him and that is why, the petitioner/accused had eloped with her on 01.12.2018.

4. The petitioner was tried in Old S.C.No.38 of 2019, New S.C.No.237 of 2019, dated 20.08.2020, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem, and was convicted of the offences under Sections 363, 366 of IPC under Section 5(1) r/w. Section 6 of POCSO Act and sentenced as under:

S.No.	Provision under which convicted	Sentence
1	Section 363 IPC	Four years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo three months simple imprisonment.
2	Section 366 IPC	Four years rigorous imprisonment and fine of Rs.10,000/-, in default to undergo six months simple imprisonment.
3	Section 6 of POCSO Act	Ten years rigorous imprisonment and fine of Rs.50,000/-, in default to undergo one year simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

5. Challenging the conviction sentence, the petitioner has filed the present appeal along with the criminal miscellaneous petition seeking to enlarge the petitioner on bail by suspending the sentence imposed on him.

6. Heard Mr.K.Sathish Kumar, learned counsel for the petitioner and Mr.P.Kritika Kamal, learned Government Advocate (Crl.Side) appearing for the respondent/State.

7. The learned counsel for the petitioner submitted that the girl has attained majority on 22.07.2018 and that the petitioner is ready and willing to marry her.

8. The petitioner has raised substantial grounds in the appeal which require a detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Taking into consideration the facts and circumstances of the case and the nature of the evidence apart, this Court is of the view that the petitioner is entitled to the reliefs of suspension of sentence and bail, till the disposal of the appeal.

9. Accordingly, the reliefs of suspension of sentence and bail are granted to the petitioner on the following conditions:

(i) The petitioner shall be released on bail on he executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

(iii) On his release, the petitioner shall appear before the trial Court and file a affidavit to the effect that he is ready and willing to marry P.W.2.

(iv) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

-sd/-

21/09/2020

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.

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TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

<https://hcservices.ecourts.gov.in/hcservices/>

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
OMALUR, SALEM,

5 THE DEPUTY SUPERINTENDENT OF POLICE,
SALEM.

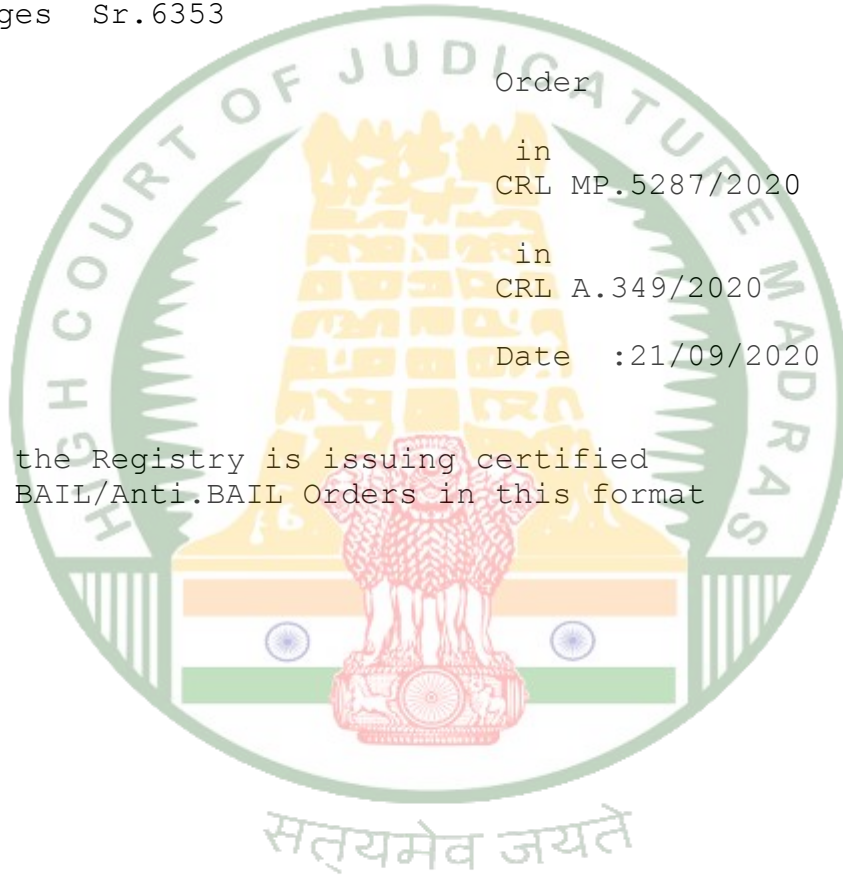
6 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUTTANI,
TIRUVALLUR DISTRICT.

+1 C.C. to M/S. K.SATHISH KUMAR Advocate on payment of
necessary charges Sr.6353

Order
in
CRL MP.5287/2020
in
CRL A.349/2020
Date :21/09/2020

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

RVR 22/09/2020



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