



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Second day of January Two Thousand Twenty

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PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION No.18003 of 2019

IN CRL.A.NO.218 OF 2019

BOOPATHY

[PETITIONER]

Vs

STATE REP BY

[RESPONDENT]

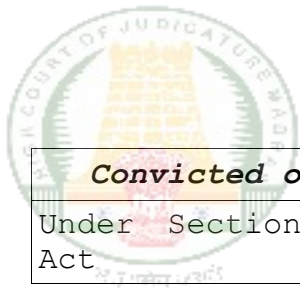
THE INSPECTOR OF POLICE,
NAMAGIRIPET POLICE STATION,
NAMAGIRIPET, RASIPURAM TALUK,
NAMAKKAL DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.218/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence dated 29.08.2017 passed in Special CC.No.3 of 2017 by the Sessions (Fast Track Mahila) Judge, Namakkal and enlarge him on bail pending disposal of the above criminal appeal No.218/2019. [CRL.MP.NO.18003/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Appeal No.218/2019 on the file of the High Court and upon hearing the arguments of M/S.P.RATHNAVEL, Advocate for the petitioner and of MR.K.PRABAKAR ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petitioner faced trial in Spl. C.C.No.3 of 2017 on the file of learned Sessions (Fast Track Mahila) Judge, Namakkal. Under judgment dated 29.08.2018, the trial Court convicted and sentenced the petitioner / accused of the offences as tabulated hereunder:-

Convicted of the Offence	Sentenced
Under Section 366 (A) IPC.	to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of Rs.2,000/-, in default, to undergo Rigorous Imprisonment for three months.
Under Section 5 (1) r/w 6 of the POCSO Act, 2012	to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of Rs.2,000/-, in default, to undergo Rigorous Imprisonment for three months.



Convicted of the Offence	Sentenced
Under Section 9 of the PCM Act	to undergo Rigorous Imprisonment for a period of one year.

2. The sentences were ordered to run concurrently. Aggrieved over the judgment of conviction and sentence, the petitioner/appellant has filed this Criminal Appeal along with the petition seeking suspension of sentence.

3. It is submitted by the learned counsel for the petitioner/accused that the amount of fine had already been paid, as directed by the trial Court in its judgment. He further submitted that the petitioner/accused has been transferred to Central Prison @ Salem, on 31.03.2019, from Central Prison, Coimbatore Town. He further submitted that there are several infirmities and inconsistencies in the prosecution case and there are also contradictions in material particulars in the evidence of the prosecution. He also submitted that there are arguable points available in this Criminal Appeal, which is not likely to be taken up for final hearing in the near future and hence, the substantive sentence imposed against the petitioner may be suspended.

4. Heard learned Additional Public Prosecutor on the submissions made by the learned counsel for petitioner.

5. Considering the facts and circumstances of the case and taking into account the submissions made by the learned counsel on either side, this Court is of the view that the petitioner herein can be granted the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner herein is directed to be enlarged on bail on the following conditions:-

a) The Petitioner/Accused shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) to the credit of Spl.C.C.No.3 of 2017 before the Trial Court, on or before 23.01.2020;

b) On such deposit being made, the Trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Appeal.

c) Thereafter, the Petitioner/Accused is ordered to be released on bail, on his 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 learned Sessions Judge, (Fast Track Mahila Court), Namakkal;

d) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and



e)The Petitioner/ Accused 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, due to unavoidable circumstances, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of his absence, as directed by the Trial Court. Such an application shall not be entertained often.

f)On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the Petitioner / Accused into custody for undergoing the sentence.

-sd/-
02/01/2020

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.

TO

1 THE SESSIONS [FAST TRACK MAHIL
JUDGE, NAMAKKAL

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE TOWN,

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

4 THE INSPECTOR OF POLICE,
NAMAGIRIPET POLICE STATION,
NAMAGIRIPET, RASIPURAM TALUK,
NAMAKKAL DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



+1 C.C. to M/S.P.RATHNAVEL Advocate on payment of necessary charges SR.NO. 36

WEB COPY

Order

in
CRL MP.18003/2019

IN CRL.A.NO.218 OF 2019

Date :02/01/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 03/01/2020