



CRL.O.P. No. 10315 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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Nataraj

... Petitioner

Vs.

1. The State rep. by
The Deputy Superintendent of Police,
Tiruchengodu Sub Division,
Namakkal District.

2. The Inspector of Police,
Komarapalayam Police Station,
Namakkal District.
(Crime No.403/2022)

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the Docket order dated 27.03.2023 made in Surety Memo in C.M.P.No.100 of 2023 passed by Hon'ble Sessions Judge, Special Court for Trial of Cases registered under SC/ST (POA) Act, Namakkal and directing the Hon'ble Trial Court to accept the Surety Memo dated 27.03.2023.

For Petitioner

: Mr.K.V.Muthu Visakan

For Respondent

: Mr.S.Santhosh
Government Advocate(Crl.Side)



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ORDER

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This petition has been filed challenging the order of return of sureties produced by the petitioners in order to comply the conditions imposed in order passed in C.M.P.No.100 of 2023 dated 01.03.2023.

2. The petitioner was arrested and remanded to judicial custody on 09.11.2022 in pursuant to the registration of the FIR in Crime No.403 of 2022 on the file of the respondent for the offence under section 302 of IPC r/w. Section 3(2)(v) of SC/ST (POA) Act.

3. The respondent police have failed to file charge sheet in Crime No.403 of 2022, therefore, the petitioner was granted default bail in C.M.P.No.100 of 2023 by order dated 01.03.2023 on the following conditions:

“1. 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, each for a like sum to the satisfaction of this Court.

2. The petitioner should appear and sign before the respondent police daily at 10.30 a.m., until further orders.

3.The petitioner shall not tamper with evidence or witnesses either during investigation or trial,

4.The petitioner shall not abscond either during investigation or trial.

5.If the accused thereafter abscond, a fresh FIR can be registered under section 229-A of IPC.”

4. Thereafter, the petitioner produced the sureties on 27.03.2023, however,

it was returned stating that the bail was granted under Section 167(2) of Cr.P.C on



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01.03.2023, and subsequently final report was also filed. This Court cannot understand the endorsement made by the Court below since the petitioner was granted default bail under section 167(2) Cr.P.C.

5. In the bail orders, normally, no time limit would be fixed for execution of sureties. Whenever, the petitioner executes sureties, he has to be released from the prison. Though there was a delay in executing sureties, it cannot be a ground for rejection of sureties, on that ground the respondent police have filed a final report, which was laid after granting on default bail under section 167(2) Cr.P.C.

6. Therefore, the return endorsement made in the docket order is hereby set aside and on production of sureties, by the petitioner, the Trial Court is directed to accept the same, if it is otherwise in order.

7. With the above, this Petition is allowed. The petitioner is at liberty to produce fresh surety memo and it is to be accepted.

05.05.2023

Index : Yes/No

Internet : Yes

Speaking/non speaking order

mpa/rri



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G.K.ILANTHIRAIYAN, J.

mpa

To

1. The learned Sessions Judge,
Special Court for Trail of Cases registered
under SC/ST (POA) Act,
Namakkal.
2. The Deputy Superintendent of Police,
Tiruchengodu Sub Division,
Namakkal District.
3. The Inspector of Police,
Komarapalayam Police Station,
Namakkal District.
4. The Public Prosecutor,
High Court, Madras.

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