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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM:

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.12357 of 2023

Kumar @ Murugan

... Petitioner

Vs.

The State rep by
Station House Officer,
Pudupettai Police Station,
Cuddalore District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned Principal District and Sessions Judge, Cuddalore in Crl.M.P.No.2553 of 2023 dated 10.04.2023 and permit the petitioner to release him on temporary bail for a specific period for furnishing the sureties, enabling the petitioner to comply with the conditions in terms of his bail petition in Crl.M.P.No.6900 of 2022.

For Petitioner : Mr.H.Manojin

For Respondent : Mr.N.S.Suganthan
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed to set aside the order in Crl.M.P.No.2553 of 2023 dated 10.04.2023, passed by the learned



Principal District and Sessions Judge, Cuddalore and to release him on temporary bail to comply with the conditions in CrI.M.P.No.6900 of 2022 dated 08.11.2022.

2. Learned counsel for the petitioner would submit that the petitioner is an accused in Crime No.465 of 2022 registered by the respondent police for the offence under Sections 294(b) and 302 of IPC. He was arrested and remanded to judicial custody on 19.07.2022 and the petitioner moved a bail application in CrI.M.P.No.6900 of 2022 on the file of the Principal District and Sessions Judge, Cuddalore and he was granted bail on 08.11.2022 after 113 days in judicial custody. The learned Principal District and Sessions Judge, Cuddalore, while granting bail, had directed the petitioner to execute the bond for a sum of Rs.10,000/- with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Panruti. He would further submit that despite bail being granted on 08.11.2022, the petitioner, due to poverty, is unable to arrange the surety and is languishing in prison for the past 231 days.

3. The learned counsel for the petitioner would further submit that



the Hon'ble Apex Court, on 31.01.2023 in SMWP (CRIMINAL) No.4/2021, with a view to ameliorate the problems of prisoners/accused persons, who are unable to furnish sureties and come out on bail, had directed the courts to consider grant of temporary bail for a specified period so as to enable them to come out and furnish sureties within a specified time and taking into consideration the socio-economic condition, the petitioner may be granted temporary bail on his own bond for a limited period.

4. Learned Government Advocate (Crl.Side) would fairly concede that the petitioner is a poor coolie and he comes from poor economic background. He would further submit that the petitioner was arrested on 19.07.2022 and he was granted bail on 08.11.2022 and since he is unable to furnish the surety, he is languishing in jail till date.

5. Heard.

6. In **SMWP (CRIMINAL) No.4/2021; 31.01.2023 reported in 2023 LiveLaw (SC) 76**, the Hon'ble Apex Court has issued the following directions:-

1. The Court which grants bail to an under trial prisoner/convict would be required to send a soft copy of



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the bail order by e-mail to the prisoner through the Jail Superintendent on the same day or the next day. The Jail Superintendent would be required to enter the date of grant of bail in the e-prisons software(or any other software which is being used by the Prison Department)

2. If the accused is not released within a period of seven days from the date of grant of bail, it would be the duty of the Superintendent of Jail to inform the Secretary, DLSA who may depute para legal volunteer or jail visiting advocate to interact with the prisoner and assist the prisoner in all ways possible for his release.

3. NIC would make attempts to create necessary fields in the e-prison software so that the date of grant of bail and date of release are entered by the Prison Department and in case the prisoner is not released within 7 days, then an automatic email can be sent to the Secretary, DLSA.

4. The Secretary, DLSA with a view to find out the economic condition of the accused, may take help of the Probation Officers or the Para Legal Volunteers to prepare a report on the socio-economic conditions of the inmate which may be placed before the concerned Court with a request to relax the condition(s) of bail/surety.



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5. In cases where the under trial or convict requests that he can furnish bail bond or sureties once released, then in an appropriate case, the Court may consider granting temporary bail for a specified period to the accused so that he can furnish bail bond or sureties.

6. If the bail bonds are not furnished within one month from the date of grant bail, the concerned Court may suo motu take up the case and consider whether the conditions of bail require modification/relaxation.

7. One of the reasons which delays the release of the accused/convict is the insistence upon local surety. It is suggested that in such cases, the courts may not impose the condition of local surety”.

7. In view of the above, the condition imposed on the petitioner by the learned Principal District and Sessions Judge, Cuddalore in CrI.M.P.No.6900 of 2022 dated 08.11.2022 is modified to the effect that the **“(i) petitioner is ordered to be released on temporary bail for a period of four weeks on executing a bond for a sum of Rs.5,000/- before the Superintendent of Police, Cuddalore.**

(ii) the petitioner shall, within a period of four weeks from coming out on bail, furnish two sureties who shall execute bond for Rs.5,000/- and



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if the petitioner fails to furnish sureties within four weeks of his release on temporary bail, the learned Magistrate shall take appropriate steps to secure the petitioner.

8. All other conditions imposed in CrI.MP.No.6900 of 2022 dated 08.11.2022 remains unaltered. The Criminal Original Petition is ordered accordingly.

26.06.2023

drl/ssk.

Note to office:-

**Issue copy of this order
by 4.7.2023.
To**

1. The Principal District and Sessions Judge,
Cuddalore.
2. Station House Officer,
Pudupettai Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court, Madras.

A.D.JAGADISH CHANDIRA, J.



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drl/ssk.

Crl.O.P.No.12357 of 2023

26.6.2023.