



CRL.M.P.NO.9298 OF 2023
IN CRL.A.NO.964 OF 2022

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M.SUNDAR., J.
AND
R.SAKTHIVEL., J.

(Order of the Court was made by M.SUNDAR., J.)

This order will now dispose of the captioned 'Criminal Miscellaneous Petition' ('Crl.MP' for the sake of brevity).

2.Captioned main 'Criminal Appeal No.964 of 2022' ('Crl.A' for the sake of brevity) was disposed of by this Court in and by judgment dated 29.03.2023. To be noted, captioned main Crl.A is an appeal under Section 34 of 'The Prevention of Terrorism Act, 2002 (15 of 2002)' (hereinafter be referred to as 'POTA' for the sake of convenience and clarity) in which an order dated 18.07.2022 in Crl.M.P.No.235 of 2022 in SPL.CC.No.5 of 2003 (CNR NO.TNCH 06 000237-2022) made by the Trial Court in a bail plea was reversed and bail was granted to the petitioner before us who is A29 in the Trial Court.



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3.The most relevant paragraph in our aforementioned bail order

is paragraph 9 and the same reads as follows:

'9.In the light of the discussion and dispositive reasoning thus far, we deem it appropriate to grant bail and say that the appellant shall be enlarged on bail subject to the following conditions:

(i) The appellant 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 Special Court under the Prevention of Terrorism Act (POTA) (Sessions Court for Exclusive Trial of Bomb Blast Cases), Poonamallee, Chennai (trial Court);

(ii) As regards the two sureties, one should be relative and the other can be a friend;

(iii) The appellant shall furnish her permanent address and shall inform the trial Court and the respondent about any change in her address;

(iv) The appellant shall appear before the aforementioned Court i.e., Special Court under the



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Prevention of Terrorism Act (POTA) (Sessions Court for Exclusive Trial of Bomb Blast Cases), Poonamallee, Chennai (trial Court) on all working days at 10.30 a.m. until further orders of this Court.'

Captioned Crl.MP has been filed with a prayer for modification of condition No.(ii) which is in the nature of sub-paragraph (ii) of paragraph No.9. Adverting to the petition in the captioned matter i.e., in the captioned Crl.M.P, Mr.R.Sankarasubbu, learned counsel for petitioner submits that one Thiru. Madhesh S/o.Periyakundan is one of the sureties and that surety has been accepted by the learned trial Judge but as regards relative surety, surety given by one Thiru. Mani S/o.Chinnasamy (we are informed that Thiru.Mani S/o.Chinnasamy is petitioner's spouse's sister's husband) learned counsel for petitioner submitted that Thiru. Mani has been arrayed as an accused in two criminal cases but such cases arise out of immovable property disputes and the learned Trial Judge has sought report from the Probation Officer.



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4.As regards the modification plea, learned counsel submitted that the plea is to modify the aforementioned condition No.(ii) in paragraph No.9 and say that both sureties or in other words, the second surety can also be a friend and need not be a relative of the petitioner.

5.Responding to the aforementioned plea, Mr.A.Gokulakrishnan, learned Additional Public Prosecutor drew our attention to paragraph 5 of our judgment in the main Crl.A (judgment dated 29.03.2023) and submitted that the only plea of the respondent is that the petitioner was absconding and was secured later.

6.We carefully considered the submissions of both sides.

7.As regards absconding objection, the same has been raised in the main Crl.A and it has been dealt with in the main Crl.A itself. Therefore, that may really not have an impact on the modification plea and this is moreso as we are informed that the judgment in the main Crl.A has attained legal quietus.



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8.Learned counsel for petitioner relying on a judgment of this Court in ***ANBARASAN VS. STATE REP. BY THE INSPECTOR OF POLICE [CRL.O.P.(MD) NO.3904 OF 2008 DECIDED ON 09.04.2008]*** submitted that testing the surety and satisfaction of the learned Judge cannot be by calling for a Probation Officer's report. We make it clear that testing of the surety and satisfaction of the second surety to be now furnished shall be in accordance with law laid down by this Court.

9.We also make it clear that furnishing, testing and satisfaction of surety will proceed in accordance with law without waiting for next listing as next listing is only for the limited purpose of a report we would requisition infra from the Trial Court Judge. To be noted, next listing shall be post disposed of – of captioned Crl.MP.

In the light of the narrative thus far, we deem it appropriate to accede to the modification plea and say that both sureties can be friends. In any event, one surety Thiru. Madhesh S/o.Periyakundan has already been



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accepted by the learned trial Judge therefore, it will suffice to say that the second surety can also be a friend, however for clarity and specificity, we deem it appropriate to say that paragraph No.9(ii) as in original appeal judgment reads as follows:

'9....

(i)...

(ii) *As regards the two sureties, one should be relative and the other can be a friend;*'

and modified paragraph No.9(ii) will now reads as follows:

'9...

(i)...

(ii)As regards the two sureties, both can be friends;'

Captioned Crl.MP is ordered in the aforesaid manner.

[M.S., J.] [R.S.V., J.]

14.07.2023



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PS: Though the captioned 'CrI.MP' has been disposed of we deem it appropriate to requisition a report from the Trial Court Judge i.e., learned Judge of Special Court under the Prevention of Terrorism Act (POTA) (Sessions Court for Exclusive Trial of Bomb Blast Cases) Poonamallee, Chennai regarding one of the sureties furnished and not accepted namely Thiru. Mani S/o.Chinnasamy.

List the captioned matter under the cause list caption 'FOR REPORT' one week hence. List on 21.07.2023.

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