



HCP.No.1924/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

HCP.No.1924/2023

S.Leelavathi

... Petitioner

Vs.

1.The Superintendent
Central Prison, Coimbatore.

2.The Inspector of Police
Chennimalai Police Station
Erode District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of habeas corpus to produce the petitioner son detenu namely Mr.S.Kannan, son of Sankaran, aged about 53 years who is confined at Central Prison, Coimbatore in connection with Cr.No.529/2015 on the file of the 2nd respondent before this Court and set him at liberty.



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For Petitioner : Mr.R.Sankarasubbu
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1)The present writ petition has been filed by the petitioner, mother of the detenu Kannan, seeking to cause production of her son before this Court and to set him at liberty.
- (2)In the affidavit filed in support of the petition, the petitioner had stated that the son of the petitioner / detenu was arrested and remanded to judicial custody in connection with the case in Crime No.529/2015 for the commission of the alleged offences under Sections 419, 468, 471, 447 and 420 of IPC and under Sections 18[A], 20, 38 40[1][c] of the Unlawful Activities [Prevention] Act, 1967 and was remanded to judicial custody. The petitioner further states that the son of the petitioner moved bail application before the learned Principal Sessions Judge, Erode and the same was dismissed. Subsequently, he moved a bail application by filing Crl.OP.No.913/2017 before this Court and this Court, vide order dated



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07.02.2017, had granted bail to the accused subject to certain conditions.

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One of the conditions was that the accused/petitioner therein shall execute a bond for a sum of Rs.15,000/- with two sureties each for a likesum and one of the sureties should be that of a blood relative. The petitioner further states that pursuant to the direction of this Court, when the sureties were produced before the learned Principal Sessions Judge, Erode, the learned Judge returned the Surety Memo raising certain queries. The petitioner's son preferred an appeal with a delay of 101 days in CrI.MP.No.17100/2022 in CrI.A.SR.No.53883/2022 against the Return of the Surety Memo. This Court, however dismissed the Appeal on 28.11.2022 with liberty to the accused to represent the Surety Memo before the Trial Court and with a direction to the Trial Court to pass appropriate orders on such representation.

(3)It is the contention of the learned counsel for the petitioner that till date no orders have been passed by the learned Principal District and Sessions Judge, Erode, despite a specific direction given by this Court on 28.11.2022. Hence, the learned counsel prayed for appropriate orders.



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(4) Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

(5) It is a peculiar case where, despite bail that was granted to the accused / son of the petitioner, even in the year 2017, the accused has not been released. From the records, it is seen that the Surety Memo was filed on behalf of the accused on 28.06.2022 and the same was returned by the learned Principal District and Sessions Judge, Erode. The order returning the Surety Memo was challenged before this Court by the accused himself. This Court, vide order dated 28.11.2022, passed the following order:-

"5. In our considered opinion, the order under challenge is not a judicial order. It is merely an endorsement returning the surety memo with certain queries that have raised by the said Court. It is always open to the petitioner to represent the same giving answers to the queries. If, thereafter, a judicial order is passed by the said Court, the same could be the subject matter of the appeal.

With the above observation, this Criminal Miscellaneous Petition stands dismissed and liberty is



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given to the petitioner to represent the surety memo before the trial court with his explanation and on such representation, the learned Principal District and Sessions Judge, Erode, is directed to pass appropriate orders. The Registry of this Court is directed to return the original impugned docket order to Mr.R.Sankarasubbu, learned counsel for the petitioner after substituting with a photocopy of the same in the case file. Consequently, the criminal appeal is rejected at the SR stage itself."

(6)The learned counsel for the petitioner contended that the petitioner herein / mother of the accused and the brother of the accused, offered to be surties.

(7)The learned Additional Public Prosecutor on instructions also states that the learned Trial Judge has not passed any order.

(8)This Court is of the view that the delay on the part of the learned Principal District and Sessions Judge, Erode, in passing the order, has caused serious prejudice to the son of the petitioner / accused.

(9)Hence, the writ petition stands **disposed of** with a direction to the learned Principal District and Sessions Judge, Erode, to consider and dispose of



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the Surety memos considering the fact that the mother and brother of the accused have offered to be the sureties, pursuant to the directions of this Court on 28.11.2022 in CrI.MP.No.17100/2022 in CrI.A.SR.No.53883/2022 **forthwith.**

[S.S.S.R., J.] [S.M, J.]
10.10.2023

AP

Internet : Yes

NOTE:Issue order copy today [10.10.2023]

To

- 1.The Superintendent
Central Prison, Coimbatore.
- 2.The Inspector of Police
Chennimalai Police Station
Erode District.
- 3.The Public Prosecutor,
High Court, Madras.



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S.S. SUNDAR, J.,
and
SUNDER MOHAN, J.,

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