



Crl.OP(MD)No.13900 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09/08/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.13900 of 2023

Elani Mani @ Manikandan

: Petitioner

Vs.

The State rep. by its
The Inspector of Police,
Town West Police Station,
Thanjavur District.
(Crime No.841 of 2022)

: Respondent

Prayer: Criminal Original Petition is filed under section 482 of the Criminal Procedure Code to call for the records and set aside the order passed by the Judicial Magistrate No.1, Thanjavur, in Surety Memo C.P No.245 of 2023 in Crl.MP No.2185 of 2022, dated 13/07/2023 and pass further or other orders.

For Petitioner : Mr.PR.Boomee Rajan

For Respondent : Mr.S.Manikandan
Government Advocate
(Criminal side)



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ORDER

This petition has been filed seeking to set aside the order passed by the Judicial Magistrate No.1, Thanjavur, in Surety Memo C.P No.245 of 2023 in Crl.M.P No.2185 of 2022, dated 13/07/2023.

2.The petitioner is facing the charges for the offences punishable under sections 364 IPC @ 364 and 302 IPC, before the trial court.

3.Since, the final report was not filed with a time stipulated, statutory bail was granted to the petitioner, on 29/09/2022 in Crl.MP No.2185 of 2022 by the committal court. While passing the above said order, the petitioner was directed to produce surety. But no time limit was mentioned. Later, final report was filed, on 29/09/2022 and taken cognizance in PRC No.31 of 2022 on 01/11/2022. The matter was committed to the Principal District Judge, Thanjavur. Now it is stated to be pending in SC No.196 of 2022. In the meantime, this petitioner filed surety memo in CP No.245 of 2022, on 03/07/2023 to execute the order of bail.That came to be dismissed by the committal court, on 13/07/2023 stating that the case has been committed to the Principal District Judge, Thanjavur. The delay has not properly explained.



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4. Against which, this criminal original petition has been filed.

5. Heard both sides.

6. The learned counsel appearing for the petitioner would rely upon the order of this court passed in Crl.OP(MD)No.8314 of 2023, which was filed by the co-accused on similar situation. According to him, no time limit was fixed by the committal court, while granting the statutory bail, he can produce surety at any time. But in the above said order, it has been clearly stated that if no time limit is prescribed, it can be executed either immediately or within a reasonable time. What is reasonable time is depending upon the facts and circumstances of each case. The accused must satisfy the trial court or the committal court as the case may be the reason assigned is reasonable and acceptable.

7. But here, after a lapse of 10 months that too after committal process is over, surety memo has produced. It is baldly stated that because of the illness, he could not execute the surety, since the parents were taking treatment in Kerala. Such a bald statement cannot be taken into account at all. So, the petitioner cannot take advantage



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of the order passed by this court for the co-accused, since the co-accused, within a month produced the surety and also satisfied the court with regard to the delay.

8. But here, absolutely a bald statement is made by the petitioner, which cannot be taken into consideration at all. The reason is not properly explained to the satisfaction not only to the committal court, but also to this court. The delay and that too enormous delay coupled with lethargic attitude cannot be encouraged.

9. On that sole ground, I find no reason to set aside the order passed by the committal court. The petitioner can move fresh bail application before the trial court.

10. In the result, this criminal original petition stands dismissed.

sd/-
09/08/2023

/ TRUE COPY /

/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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- To,
- 1.THE JUDICIAL MAGISTRATE NO.1,
THANJAVUR.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR @ KUMBAKONAM.
 - 3.THE INSPECTOR OF POLICE,
TOWN WEST POLICE STATION,
THANJAVUR DISTRICT.
 - 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.13900 of 2023
Date :09/08/2023

RK/VR(07/09/2023) 5P /5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023