



WEB COPY



Crl.O.P.No.3264 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.3264 of 2024

Senthil

... Petitioner/A2

Vs.

The State rep. by
The Inspector of Police,
All Women Police Station,
Thiruvarur.
(Crime No.29 of 2022)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 439(1)(b) r/w Section 482 of Cr.P.C., prayed to set aside and modify the condition imposed in Crl.M.P.No.353 of 2023 dated 18.10.2023 on the file of the learned Principal District and Sessions Judge / in Full Additional Charge of Sessions Judge, Fast Track Mahila Court, Thiruvarur.

For Petitioner : Mr. K.Shivakumar

For Respondent : Mr. R. Vinothraja
Government Advocate (Crl. Side)



Crl.O.P.No.3264 of 2024

WEB COPY

ORDER

This Criminal Original Petition has been filed seeking modification of a condition imposed in Crl.M.P.No.291 of 2023, which petition had been filed seeking bail for the petitioner herein. The petitioner is an accused in Spl.S.C.No.6 of 2023 and is facing trial before the Sessions Court / Fast Track Mahila Court at Thiruvavarur.

2.Originally, Crime No.29 of 2022 had been registered for the offences under Sections, 6, 5(1), 5(n) of the POCSO Act. The petitioner had been remanded to custody on 31.10.2022.

3.It is the contention of the respondent that the petitioner had committed the offence against his own daughter several times. But at any rate, the learned Principal District and Sessions Judge / in full additional charge of Sessions Judge, Fast Track Mahila Court, Thiruvavarur, had thought it fit to grant bail to the petitioner in Crl.M.P.No.291 of 2023. Among other conditions imposed while granting such bail, the petitioner was directed to execute a bond for Rs.25,000/- with two sureties, each for like sum to the



Crl.O.P.No.3264 of 2024

satisfaction of the Court and one of the surety must be a blood relative of the petitioner.

4. Thereafter, expressing inability to obtain a blood surety, the petitioner had filed an application seeking modification of that particular condition which came up for consideration on 18.10.2023 in Crl.M.P.No.352 of 2023. The learned Principal District and Sessions Judge, who was again holding charge of the Sessions Court, again revisited the said condition, but observed that the petitioner would abscond if released on own bond and therefore, dismissed the said application.

5. The petitioner has now filed this petition seeking to modify the condition imposed to execute a bond for Rs.25,000/- with two sureties, each for like sum and one of the surety must be a blood relative of the petitioner.

6. It had been brought to the notice of the legal aid that the petitioner had been suffering incarceration from 31.10.2022 nearly about one year and four months.



Crl.O.P.No.3264 of 2024

WEB COPY

7.The learned counsel for the petitioner made a fervent plea that the liberty of the petitioner had been very seriously curtailed owing to imposition of such condition as a pre-condition to be released on bail. It was pointed out that the petitioner stands as accused of committing offence under Section 6 of POCSO Act against his own daughter and therefore stated that it would be highly impossible and as a matter of fact, impossible to produce any surety much less blood surety to stand for him. It is also seen that the trial has not yet commenced and the petitioner was also not successful in engaging any counsel to defend him.

8.In view of that particular fact, the learned Principal District and Session Judge, Thiruvarur, who is also the President of District Legal Services Authority, may also examine the possibility of appointing a legal aid counsel for the petitioner / accused in Spl.S.C.No.6 of 2023 to defend the case.

9.Since bail had already been granted, it may not be appropriate on the part of this Court to revisit the nature of the allegation. On consideration of the fact that bail had already been granted, sureties alone could not be



Crl.O.P.No.3264 of 2024

executed, I would **direct the release of the petitioner on own bond**, but would further impose a condition that **the petitioner should appear before the trial Court everyday apart from the Court hearing dates till completion of trial**. This would ensure that the petitioner does not abscond judicial process.

10.Observing as above, this Criminal Original Petition stands allowed.

13.03.2024

smv

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No

To,

1.The Principal District and Sessions Judge, Thiruvavarur.

2.The Inspector of Police,
All Women Police Station,
Thiruvavarur.

3.The Public Prosecutor,



Crl.O.P.No.3264 of 2024

High Court of Madras.

WEB COPY

C.V.KARTHIKEYAN, J.

smv

Crl.O.P.No.3264 of 2024

13.03.2024