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Crl.O.P.No.5188 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

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

Crl.O.P.No.5188 of 2024

Panneer

... Petitioner

Vs.

The State represented by
The Inspector of Police,
Vandavasi North Police Station,
Tiruvannamalai District.
(Crime No.49 of 2010)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,
prayed to set aside the returned order order dated 26.02.2024 made in the
surety memo by the learned Special Judge For Exclusive Trial of Cases
under POCSO Act, Tiruvannamalai and to accept the sureties furnished for
the petitioner herein by Ayyanar and Ponnammal in relation to the bail order
passed by this Court in Crl.O.P.No.2736 of 2024 dated 09.02.2024.

For Petitioner : Mr. G. Mageshkumar

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



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ORDER

This petition has been filed to set aside the returned order dated 26.02.2024 made in the surety memo by the learned Special Judge For Exclusive Trial of Cases under POCSO Act, Tiruvannamalai and to accept the sureties furnished for the petitioner in relation to the bail order passed by this Court in Crl.O.P.No.2736 of 2024 dated 09.02.2024

2.Heard both sides.

3.It is seen from the records that the learned Special Judge For Exclusive Trial of Cases Under POCSO Act, Tiruvannamalai, had refused to accept the sureties offered by the petitioner herein only because the sureties did not know about the native place of the accused and other details of the accused.

4.The learned counsel for the petitioner placed reliance on the judgment of a learned Single Judge of this Court reported in ***CDJ 2017 MHC 2885, Sagayam @ Devasagayam Vs. State rep. by the Inspector of***



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Police, Chennai, wherein the learned Single Judge had held as follows:

“66.As per section 441(4) of Cr.P.C., a surety should be a fit person. Who is a fit person has not been defined or explained anywhere in the Code. Generally, a surety must be a genuine person. He should not be a bogus person. A surety comes to the Court and gives undertaking to the Court that he will ensure the appearance of the accused. If the accused fails to appear before the Court, the surety bond executed by the surety will be forfeited.

67.Court can ascertain the genuineness of the sureties. A surety should have a genuine address. He may be asked to produce residential proof. He should not be a vagabond. He should establish his identity. A poor man can be a voter. Likewise, a poor man can be a surety. A surety can be a person without having own house. He can be a tenant. Even a person living in a platform, living in a slum having an acceptable address proof can also stand as a surety.

68.It cannot be denied that a bogus person should not be accepted as a surety. A person who is offering surety must have acceptable residential proof. He may be a tenant, licensee. A beggar can also stand as surety provided he should have some acceptable residential proof.”

5.The learned Special Judge, may apply these principles as



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aforementioned and since the sureties has produced certificate from the jurisdictional Tashildar, I do not find that the reasons rejecting them can withstand scrutiny of this Court. Therefore, the noting of the learned Special Judge For Exclusive Trial of Cases under POCSO Act, Tiruvannamalai, is set aside and a direction is given to accept the sureties forthwith. Accordingly, this Criminal Original Petition stands allowed.

6.The Registry is directed to return the original surety papers to the learned counsel for the petitioner on filing a memo to substitute the same with the true xerox copy.

12.03.2024

smv

Index : Yes / No

Neutral Citation : Yes / No

Speaking Order : Yes / No

Note:- Issue order copy on 13.03.2024



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To

- 1.The Special Judge For Exclusive Trial of Cases under POCSO Act,
Tiruvannamalai
- 2.The Inspector of Police,
Vandavasi North Police Station,
Tiruvannamalai District.
3. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

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