

M.P.No.3 & 4 of 2015
in
Crl.O.P.No.32399 of 2014

P.DEVADASS, J.

Petitioner seeks modification of a certain portion of condition imposed by this Court in its anticipatory bail order, dated 27.4.2015 passed in Crl.O.P.No.32399 of 2014 and also seeks extension of time to comply the conditions.

2 On 27.4.2015, in Crl.O.P.No.32399 of 2014, this Court granted anticipatory bail to the petitioner imposing certain conditions. One of the condition runs as under:

"9(iv) At the time of executing the bail bond, petitioner shall deposit Rs.5,00,000/- (Rupees five lakhs only) to the credit of Crime No.49 of 2013 before the said Court."

It also prescribed 15 days time to comply the said condition.

3 The learned counsel for the petitioner submits that by quirk of events petitioner came to be included in this case. He will defend himself and face the trial when the final report is filed before the trial Court. He is a poor man. Even as per the prosecution version, he is a middleman. It is also the case of the prosecution that major amount has been eaten by the other accused and only some vague allegations have been made as against the petitioner. Further, when bail was granted the main accused have

furnished adequate property sureties. In the circumstances, the learned counsel for the petitioner submits that the said condition directing him to deposit of Rs.5 lakhs may be waived or reduced.

4 The learned Additional Public Prosecutor submits that the petitioner is also a cheat. He is also a member of a cheat gang. In the facts and circumstances, no need to relax the bail condition.

5 I have considered the rival submissions and perused the records.

6 This is MBBS seat fraud case. Admittedly, petitioner is not the main accused. He is alleged to have introduced parents of MBBS aspirants to the other accused for securing them admission in MBBS Course in Vinayaka Mission Medical College, Salem for a paltry sum as commission. The other prime accused have also furnished property surety. The role ascribed to the petitioner in this case is minimal. According to the learned counsel for the petitioner, he do not have money to deposit the said amount.

7 While granting anticipatory bail Court can direct the accused to furnish personal surety or cash surety. It is alternative and not both. In cheating cases where public money have been looted, Courts are directing the accused to deposit certain amount as a condition for grant of bail or anticipatory bail as the case may be. While doing so, Court must take into

account the role of the accused and his financial capacity to pay the amount. The financial capacity of the accused is important. Sometimes accused might have swindled huge amount, however, while seeking bail he tried to show that he is poor. Sometimes accused is alleged to have eaten a little amount and as per the prosecution version he will be a fry but he will be shown as big catch. In either case, the deposit amount shall be reasonable and it should not be excessive. In this case, petitioner is stated to be a commission agent. Other main accused have also furnished property sureties.

8 In the circumstances, in the anticipatory bail order dated 27.4.2015 in CrI.O.P.No.32399 of 2015 in para 9(iv), directing the petitioner to deposit Rs.5 lakhs is reduced to Rs.2,50,000/- (Rupees two lakhs and fifty thousand only) and the amount shall be deposited in Judicial Magistrate Court No.I, Dharmapuri in Cr.No.49 of 2013. The said condition shall be complied within a period of 15 days from the date of receipt of a copy of modified order.

07.07.2015

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Dated 7.7.2015

Dated 08.4.2015