

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. No. 688 of 2015

Arun Kumar

.. Petitioner

Versus

State represented by  
The Inspector of Police  
HUDCO Police Station  
Hosur Taluk  
Krishnagiri District.

.. Respondent

Criminal Revision Case, filed under Section 397 read with 401 of the Criminal Procedure Code, against the order dated 23.06.2015 made in Cr.No.151 of 2015 by the learned Judicial Magistrate No.II, Hosur and set aside the same.

For Petitioner : Mr.A.Balamurugan

For Respondent : Mr. T.Arul  
Government Advocate (Crl.side)

ORDER

According to the petitioner/accused, he was arrested by the respondent police in connection with the case in Cr.No.151 of 2015 for the alleged offence under Section 174 Cr.P.C. altered into Sections 302 and 379 IPC and remanded to judicial custody for 91 days. Hence, the accused has filed Crl.M.P.No.793 of 2015 before the Principal District Judge, Krishnagiri, seeking bail. Considering the fact that the accused was in custody for 78 days and also the fact that the investigation was almost over, bail was granted, however, on conditions. One condition is that out of the two sureties, one surety shall belong to Tamil Nadu and shall own property worth Rs.1,00,000/- and he shall deposit original sale deed before the Court, till the disposal of case. According to the accused, due to the onerous condition imposed, he is not able to come out on bail. Hence, the accused again filed an application under Section 167(2) Cr.P.C. seeking bail before the Judicial Magistrate No.II, Hosur, alleging that he is entitled to statutory bail as the charge sheet in Cr.No.151 of 2015 is not filed within the time prescribed by the statute. But, the said bail application was dismissed by impugned order dated 23.06.2015 on the ground that already bail was granted to the accused by the Sessions Court, by order dated 11.06.2015.

Aggrieved against the same, the present Criminal Revision Case is filed by the accused.

2. Today, when the matter is taken up, Mr.A.Balamurugan, learned counsel appearing for the petitioner/accused would submit that earlier, the accused has filed CrI.M.P.No.793 of 2015 before the Principal District Judge, Krishnagiri, seeking bail and the Lower Court granted bail, however, on conditions, out of which, one condition is that out of the two sureties, one surety shall belong to Tamil Nadu and shall own property worth Rs.1,00,000/- and he shall deposit original sale deed before the Court, till the disposal of case. He would further submit that due to the onerous condition imposed, he is not able to come out on bail and that the accused has again filed the bail application before the Judicial Magistrate No.II, Hosur, under Section 167(2) Cr.P.C., alleging that he is entitled to statutory bail as the charge sheet in Cr.No.151 of 2015 is not filed within the time prescribed by the statute, but, the said bail application was dismissed by impugned order dated 23.06.2015. He would further submit that he will be satisfied, if the onerous condition imposed by the Lower Court while granting bail by order dated 11.06.2015 is modified, so that, the accused can out of bail. He would further submit that because of the onerous condition directing that out of the two sureties, one surety shall belong to Tamil Nadu and shall own property worth Rs.1,00,000/- and he shall deposit original sale deed before the Court, the accused is unable to come out on bail, as he is unable to get that surety, because, no one is prepared to give the original sale deed to be deposited before the Lower Court, till the disposal of the case, instead of that, the accused is prepared to give a Government Surety.

3. Mr.V.Arul, learned Government Advocate (Criminal Side) would contend that the accused is facing the charge for the offence under Section 302 IPC., and hence, specific safeguard has to be made, especially, when the petitioner/accused belongs to Karnataka.

4. Heard both sides and I have perused the materials on record. By consent, the main Criminal Revision Case itself is taken up for final disposal.

5. Without going into the merits of the case, since, the petitioner/accused restricted his prayer only in respect of the onerous condition imposed by the Lower Court while granting bail by order dated 11.06.2015 and he will be satisfied if the onerous condition directing the accused to give two sureties, out of which, one surety shall belong to Tamil Nadu and shall own property worth Rs.1,00,000/- and shall deposit original sale deed before the Court, alone is modified, as the accused is unable to come out on bail, as he is unable to get that surety, because, no one is prepared to give the original sale deed to be deposited before the Lower Court, till the disposal of the case, instead of that, the accused is prepared to give a Government Servant Surety. In view of the said submission,

the bail granted by the Principal District Judge, Krishnagiri, by order dated 11.06.2015, in CrI.M.P.No.793 of 2015 is upheld, but, the condition insofar as sureties is concerned that out of the two sureties, one surety shall belong to Tamil Nadu and shall own property worth Rs.1,00,000/- and he shall deposit original sale deed before the Court, till the disposal of case, alone stands modified to the effect that the petitioner/accused shall give two sureties, out of which, one surety shall be a local surety, who shall in proof of identity shall produce a copy of the original document for property and ration card etc., before the Lower Court and the Lower Court after verification of the same shall return the original document by keeping a xerox copy of the same. Insofar as the second surety is concerned, it shall be from a Government servant. The petitioner/accused further undertakes to appear before the Committal Court, whenever the case is posted, until further orders. In all other aspects, the order passed by the Lower Court in CrI.M.P.No.793 of 2015, dated 11.06.2015, holds good. The impugned order passed by the learned Judicial Magistrate No.II, Hosur, dated 23.06.2015, stands confirmed. This Criminal Revision Case is disposed of accordingly.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police  
HUDCO Police Station  
Hosur Taluk  
Krishnagiri District.
2. The Judicial Magistrate No.II,  
Hosur.
3. The Public Prosecutor,  
High Court, Madras.

+ 1 cc to M/s.A.Balamurugan, Advocate SR 37824

rsg(co)  
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