

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.2.2015

CORAM:

THE HON'BLE MR.JUSTICE P.DEVADASS

Crl.O.P. No. 3896 of 2015

Alkash

... Petitioner

Vs.

State rep. By
Inspector of Police,
City Crime Branch,
Tirupur,
(In Crime No.17 of 2014)

... Respondent

Criminal Original Petition filed under Section 439(1)(b) of the Code of Criminal Procedure, to modify the conditions imposed in Crl.M.P.No.101 of 2015 dated 29.01.2015 on the file of Principal Sessions Judge of Tiruppur.

For Petitioner : Mr.J.Franklin

For Respondent : Mr.Mohamed Riyaz
Govt. Advocate (Puducherry)

O R D E R

Petition for modification of the bail condition imposed by the learned Judicial Magistrate No.I, Tiruppur in C.M.P.No.69 of 2015 on 22.1.2015 as modified by the Principal Sessions Judge, Tiruppur in C.M.P.No.101 of 2015 on 29.1.2015.

2. Offences alleged are under Sections 468, 471 and 420 of IPC.

3. The petitioner made an attempt on a bank to withdraw cash on fake cheque. He has failed in its attempt. It has become a misadventure. Offence has become an inchoerred offence.

4. On 22.1.2015, the learned Judicial Magistrate No.I, Tiruppur granted him default/statutory bail.

5. In the bail order, the learned Magistrate prescribed the following conditions :

'(i) Petitioner and two sureties, out of which one shall be the close relative of the petitioner shall execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) each.

(ii) The sureties shall produce their House Tax receipt and ration card.

(iii) The sureties shall produce their property documents.

(iv) The petitioner shall submit his passport obtained from Indian Government before this Court

(v) The accused shall appear and sign before the concerned police station daily at 10.00 am until further orders.'

6. Aggrieved the petitioner took it to the next Court, namely, learned Principal Sessions Judge, Tiruppur in C.M.P.No.101 of 2015. The learned Principal Sessions Judge, modified condition No.1 as to production of original property document to the Court. However, after verification directed to return of the document.

7. It is pertinent to note that the default bail was granted to the petitioner as early as on 22.1.2015. Till date, he is in jail. He does not like to continue in jail. He is languishing to come out of jail. But, he could not. The conditions imposed are harsh, oppressive. The grant of bail is different from while imposing bail condition. Bail condition must be an individualized decision. Court has to consider the financial capacity, position and plight of the accused. In imposing bail condition, in short, conditions should not be in such a nature, grant of bail by one hand and taking away it by another hand by imposing condition which are oppressive in nature.

8. Now, in this case, petitioner belongs to Vadora in Gujarat. He liked Tiruppur. While in Tiruppur, he had exhibited a deviated behaviour. He has committed a crime. He has become jail accused. He was very fortunate that he was granted bail, that is default bail. The prima facie, the conditions are oppressive in nature, namely, deposit of Rs. 50 lakhs, production of property, surety. There is no allegation that the petitioner will flee away from this country. It is not a case registered by Customs Department, DRI or having any connection with the petitioner will run away from this country.

9. In such circumstances, there is no need to direct to surrender passport.

10. Bail conditions imposed by the learned Judicial Magistrate No.I, Tiruppur which has been revised by learned Principal Sessions Judge, Tiruppur is modified to the effect that there shall be two sureties, who shall execute a bond for Rs.10,000/- to the satisfaction of Judicial Magistrate No. I, Tiruppur. The bond stated is personal bond. Petitioner shall appear before the respondent police on every Monday and Friday at 10.30 am for four weeks and thereafter, as and when required for interrogation. All other conditions are deleted

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

Kua

To

1. Principal Sessions Judge of Tiruppur.
2. Judicial Magistrate No.I, Tiruppur.
3. Inspector of Police,
City Crime Branch, Tiruppur.
4. The Public Prosecutor, High Court, Madras.
5. Section Officer,
Criminal Section, High Court, Madras.
6. Do thro the Chief Judicial Magistrate, Tiruppur.

+1cc to Mr.J.Franklin, Advocate, S.R.No.9205

CrI.O.P. No. 3896 of 2015

TS(CO)
CA(10/03/2015)

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