

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2015

CORAM:

THE HON'BLE MR.JUSTICE P.DEVADASS

Crl.O.P. No.7123 of 2015

Prabha @ Prabhakar

...Petitioner/Accused

Vs.

The State, Rep. By
The Inspector of Police,
Shozhavaram Police Station,
Tiruvallur District.
(Crime No.561 of 2014)

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the condition that the petitioner has to deposit a sum of Rs.25,000/- before the learned Judicial Magistrate No.II, Ponneri to the credit of Crime No.561 of 2014 order passed by The Principal Sessions and District Judge, Thiruvallur in Crl.M.P.No.638 of 2015, dated 07.03.2015.

For Petitioner : Mr.J.Ganesh

For Respondent : Mr.M.Mohamed Riyas
Govt. Advocate (Crl.side)

O R D E R

Petition seeking modification of certain portion of the bail condition imposed in Crl.M.P.No.638 of 2015 by the learned Principal Sessions Judge, Thiruvallur, on 07.03.2015.

2. In the order stated supra, learned Principal Sessions Judge, Thiruvallur, while granting bail directed the petitioner to deposit Rs.25,000/- (Rupees Twenty Five Thousand Only).

3. According to the learned counsel, the petitioner is very poor and the entire alleged damage has been imposed on him and there are number of accused. There are 14 accused in this case.

4. In a case registered under TNPPD Act where, there is allegation of causing damage to public property or private property, criminal Courts started directing deposit of certain sum of money while granting bail or anticipatory bail. It has now come to stay. It is intended as a restitution to be disbursed either during the investigation of the case or at the final stage, based on the facts and circumstances of each case.

5. It is pertinent to note that the said amount is not a huge amount and it should not be looked as a execution petition in a Civil Court to collect the money for the mischief caused to the property. It is imposed in a way to instill some sort of responsibility in them and also to act as a speed breaker for their future criminal activities. It must pay regard to the facts and circumstances of each case.

6. Some times there are cases where leaders, lead the unlawful assembly and assume sole responsibility. Others were only trump cards. These matters cannot be viewed in a golden scale. It cannot be determined by mathematical precision. The Court is exercising its judicial discretion. It should not be arbitrary. Power always accompanies responsibility.

7. It alleged that Rs.25,000/- worth property has been damaged. There are 14 accused. They were alleged to have caused damage to the property. There is no allegation or there is no version that petitioner/A1 assumed sole responsibility.

8. In such circumstances, dumping the entire amount on the head of petitioner/A1 is not correct. But it depends on the facts and circumstances of each case. Sometimes, some person will lead and play as kaye role. He will be bow, others are just his arrows. They are simply dump to driven cattle. In such circumstances, leaders can be taken into task and not the dump to driven cattle. But, in the present case, no such situation. Even this Rs.25,000/- damage is only estimation. In the final analysis it

may go down or it may go up or it may become a flop.

9. Ability of the accused to pay the amount also has to be considered by the Court otherwise, it may amount to putting a big boulder in the head of a sparrow.

10. Now, in this case, petitioner has been granted bail as early as on 07.03.2015. After bail nobody like to continue in jail. But there are exceptions. But petitioner is not coming under such exceptional cases. In the instant case, on 07.03.2015 in the bail order with a condition to deposit Rs.25,000/- has been passed. If the petitioner has Rs.25,000/- he would have simply deposited it and came out on bail. It is seen that so far as the petitioner is concerned dumping Rs.25,000/- on his head appears to be onerous and it causes him much hardship.

11. Now, in the facts and circumstances and taking note of the fact that there are 14 accused, it would not be fair and reasonable to direct him to deposit Rs.25,000/-.

12. In the circumstances, the bail order of the learned Principal Sessions Judge, Thiruvallur, passed in CrI.M.P.No.638 of 2015 on 07.03.2015 directing deposit Rs.25,000/- by the petitioner to the credit of Crime No.561 of 2014 is modified to the effect that the petitioner shall deposit Rs.2,000/- (Rupees Two Thousand Only).

13. With the above modification, this Criminal Original Petition is disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy// सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Ponneri

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2. The Chief Judicial Magistrate,
Tiruvallur.

3. The Principal Sessions Judge,
Thiruvallur.

4. The Inspector of Police,
Shozhavaram Police Station,
Tiruvallur District.

5. The Public prosecutor,
High Court, Madras.

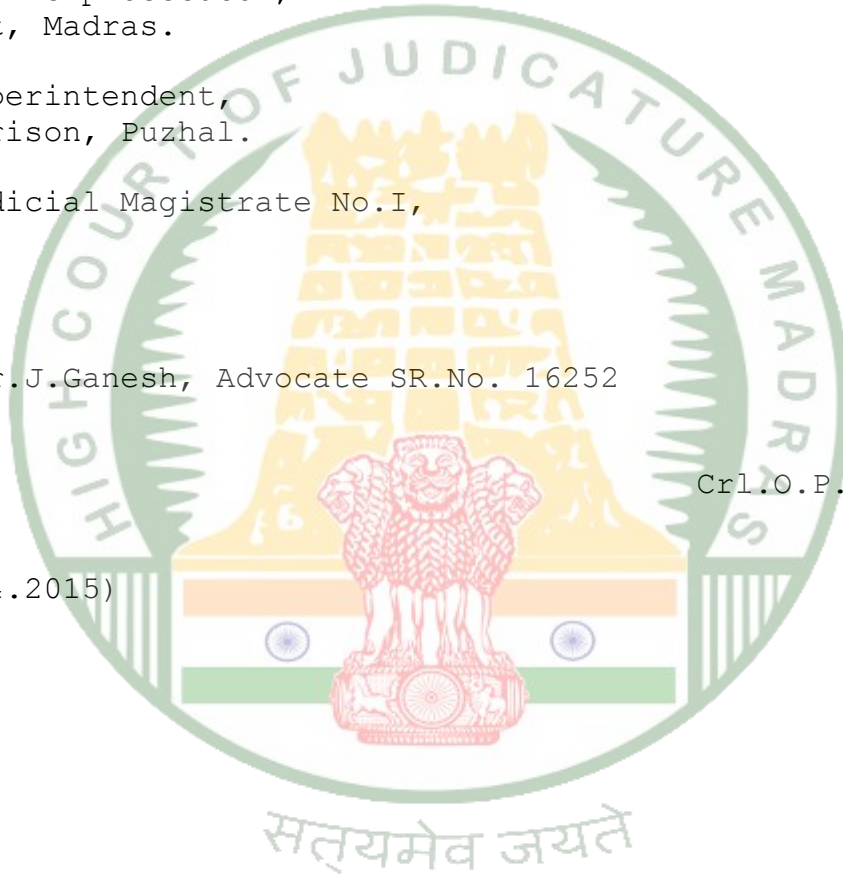
6. The Superintendent,
Central Prison, Puzhal.

7. The Judicial Magistrate No.I,
Salem.

1 CC to Mr.J.Ganesh, Advocate SR.No. 16252

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SKV (CO)
PSI (01.04.2015)



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