



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2015

CORAM

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

Cr1.O.P. (MD)No.23291 of 2015

WEB COPY

1.David

2.Singh

3.Karthikeyan @ Karthigan

: Petitioners/Petitioners 3 to 5

Vs.

The State represented by the
Sub Inspector of Police,
Anti Land Grabbing Police Station,
Nagercoil, Kanyakumari District
Crime No.57 of 2015

: Respondent/Respondent

PRAYER: Criminal Original Petition is filed under Section 439(1)(b) of the Code of Criminal Procedure praying to relax the condition imposed by the learned Sessions Judge, Kanyakumari Division at Nagercoil dated 12.10.2015 in Cr.M.P.No.2823 of 2015 directing the petitioners to deposit a sum of Rs. 1 lakh each before the Special Judicial Magistrate, Special Court for Land Grabbing Cases, Tirunelveli and further extend the time granted therein and enable the petitioners to surrender, furnish sureties and execute bail bonds and comply with the other conditions mentioned therein.

For Petitioners : Mr.N.Dilip Kumar

For Respondent : Mr.K.Anbarasan

Government Advocate (Cr1. Side)

O R D E R

This application is filed seeking relaxation of the condition imposed in Cr.M.P.No.2823 of 2015 dated 12.10.2015 by the Sessions Judge, Kanyakumari Division at Nagercoil, directing the petitioners to deposit a sum of Rs.1 lakh each and extension of time to execute bond and furnish sureties.

2.The learned Sessions Judge, while granting anticipatory bail to the petitioners, imposed a condition to deposit Rs.1 lakh each before the concerned court by order dated 12.10.2015.

3. The learned counsel for the petitioners submitted that the condition imposed by the Sessions Court is onerous and due to inability to comply with the said condition, the petitioners are unable to furnish sureties and execute bail bonds.

4. The learned counsel for the petitioners relied upon the judgments reported in (2015)1 MLJ (Cr1) 471 (Amaldoss and Others Vs. rep. By the Inspector of Police, Patteeswaram Police Station, Thanjavur District), in (2004)13 SCC 457 (Sheikh Ayub Vs. State of M.P.), in (2006) 9 SCC 169 (Shyam Singh Vs. State through CBI) and in (2015)1 L.W(Cr1.) 693 (Navaneetha Krishnan Vs.State rep. By the Inspector of Police, Natrampalli Police Station, Vellore District) in support of his



contentions.

5. Per contra, the learned Government Advocate(Crl.side) submitted that considering the gravity of the offence, the learned Sessions Judge directed each of the petitioners to deposit Rs.1 lakh which cannot be said to be onerous condition.

6.This Court has held in Amaldoss and Others Vs. State rep. By the Inspector of Police, Patteeswaram Police Station, Thanjavur District reported in (2015) 1 MLJ (Crl.) 471 as follows:

"12. In fact, this issue is no longer res integra as in catena of decisions, various High Courts as well as Hon'ble Supreme Court have consistently held that imposing condition of depositing money is excessively onerous and unreasonably and such condition may even amount to denial of bail itself"

7. In the light of the decisions referred above, the condition imposed by the learned Sessions Judge, Kanyakumari Division at Nagercoil, directing each of the petitioners to deposit Rs.1 lakh, is set aside and the other conditions shall stand unaltered and the petitioners shall comply with the other conditions. The petitioners shall execute a bond and furnish sureties within a period of 15 days from the date of receipt of a copy of this order.

8. This Criminal Original Petition is ordered accordingly.

sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Special Judicial Magistrate,
Special Court for Land Grabbing Cases,
Tirunelveli.
- 2.The Sessions Judge,
Kanyakumari Division at Nagercoil.
3. The Sub Inspector of Police,
Anti Land Grabbing Police Station,
Nagercoil, Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.N.Dilip Kumar, Advocate, SR No.71230

Crl.O.P. (MD) No.23291 of 2015
10.12.2015

CM

AM/NGM-SS/SAR-II:18.12.2015: 2P/6C