

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.06.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.13143 of 2016

Mathan Kumar

Petitioner/Accused 4.

Vs

The State rep by
The Inspector of Police,
DCB, Perambalur,
Perambalur District.

Respondent/Complainant.

Criminal Original Petition filed under Section 482 Cr.P.C., praying to modify the conditions imposed by the learned Principal District and Sessions Judge, Perambalur while granting anticipatory bail to the Petitioner by order dated 03/06/2016 in Crl.M.P.No.413/2016 with the condition that he should furnish cash security of Rs.1,50,000/- and produce two sureties with immovable property to the value of Rs.3,00,000/- each before the Judicial Magistrate, Perambalur and to extend the time for surrendering before the said Magistrate and thus render justice.

For Petitioners : Mr.M.Mohideen Pitchai
For Respondent : Mr.C.Emalias, APP

O R D E R

This petition has been filed to modify the conditional order dated 03.06.2016 in Crl.M.P.No.413 of 2016 passed by the learned Principal District and Sessions Judge, Perambalur.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the respondent and perused the materials placed on record.

3. It is the case of the prosecution that this petitioner was an employee of Pandian Grama Bank, Perambalur branch, in which, he has been defalcated a sum of Rs.2,18,96,539/- in connivance with one K.A.Pandi Kannan and others. Section 81 Cr.P.C. enquiry was conducted, pursuant to which, FIR has been registered in Crime No.7 of 2016.

4. This petitioner filed an application for anticipatory bail in CrI.M.P.No.413 of 2016 before the Principal District and Sessions Judge, Perambalur and the same was granted, on condition, that the petitioner shall deposit a sum of Rs.1,50,000/- before the learned Judicial Magistrate, Perambalur to the credit of Crime No.7 of 2016 and also execute a bond for Rs.10,000/- with two sureties along with furnishing security of immovable property to the value of Rs.3,00,000/- by each surety before the Judicial Magistrate, Perambalur. Aggrieved by the aforesaid condition, the petitioner is before this Court for modification.

5. Learned counsel for the petitioner submitted that aforesaid conditions are indeed onerous and that the gravamen of the allegations is only against K.A.Pandi Kannan and not against this petitioner.

6. In the considered opinion of this Court, on a reading of the enquiry report, it is stated that this petitioner and others had assisted K.A.Pandi Kannan in the embezzlement. In the light of the above, this Court is of the view that the condition directing the petitioner to deposit Rs.1,50,000/- cannot be said to be onerous and it is permissible for the Court to impose such condition, in the light of the judgment of the Hon'ble Supreme Court in *Sumit Mehta Vs State [NCT of Delhi]* reported in [2013] 15 SCC 570.

7. As regards the condition directing the sureties to furnish security of immovable property to the value of Rs.3,00,000/-, this Court is of the view, it requires modification, inasmuch as the sureties cannot be mulcted with such liability. It is the duty of the sureties to ensure that the accused appears before the trial Court and participate in the proceedings and on the failure of the accused, the bond for Rs.10,000/- will stand forfeited and the sureties will be liable to pay only the bond amount to the State.

8. In view of the above, the condition directing the surety to furnish security of immovable property to the value of Rs.3,00,000/- each stands deleted. However, before accepting sureties, the learned Judicial Magistrate, Perambalur is entitled to order notice to the respondent police to verify the genuineness of the sureties. As regards the condition for deposit of Rs.1,50,000/-, this Court, directs the petitioner to deposit a sum of Rs.1,50,000/- with Pandian Grama Bank, Perambalur branch, from where the amount alleged to have been embezzled and the amount should be kept in a fixed deposit, so that it earns interest and at the time of concluding the case, appropriate orders can be passed with regard to the disbursement of the said amount. Accordingly, this petition for modification is ordered. Rest of the conditions imposed by the learned Judge

shall remain the same. Two weeks time is extended from the date of receipt of a copy of this order for depositing the amount as stated above and surrendering before the learned Judicial Magistrate, Perambalur.

gya

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1.The Principal District and Sessions Judge,
Perambalur.

2.The Judicial Magistrate,
Perambalur.

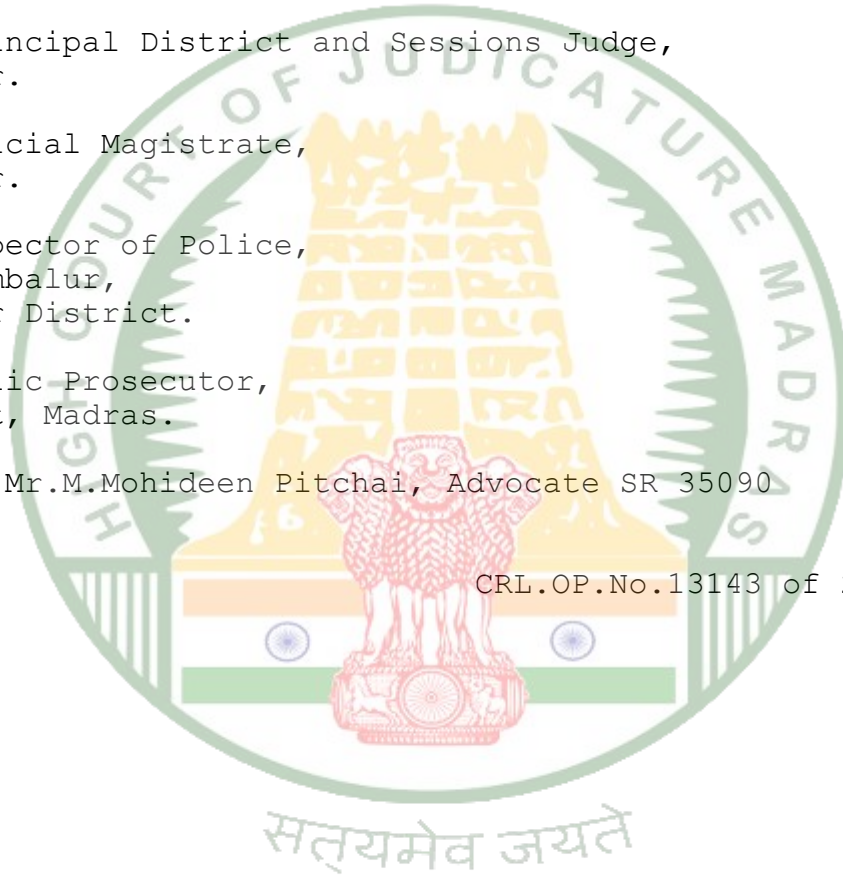
3.The Inspector of Police,
DCB, Perambalur,
Perambalur District.

4.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.M.Mohideen Pitchai, Advocate SR 35090

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