

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.04.2016

Coram:

THE HON'BLE Mr.JUSTICE M.VENUGOPAL

Crl.R.C.No.694 of 2016

M.Kannan

..Petitioner

Vs.

State represented by
Inspector of Police,
Mangalam Police Station,
Thiruppur District

...Respondent

Prayer: Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the records to the Order dated 29.03.2016 made in C.M.P.No.1434 of 2016 in Crime No.68 of 2016 on the file of learned Judicial Magistrate Court - II, Tiruppur and modify the same enabling the petitioner enlarging on bail by allowing this Petition.

For Petitioner : Mr.J.Stalin

For Respondent : Mr.V.Arul
Government Advocate (Crl.Side)

O R D E R

Heard both sides. With the consent of both sides, the main Criminal Revision Petition itself is taken up for final disposal.

2. The Petitioner / A.1 has projected the present Criminal Revision Petition before this Court as an aggrieved person, as against the Order dated 29.03.2016 in C.M.P.No.1434 of 2016 in Crime No.68 of 2016 passed by the Learned Judicial Magistrate No.II, Thiruppur.

3. The Learned Judicial Magistrate No.II, Thiruppur while passing the Impugned Order in C.M.P.No.1434 of 2016 (filed by the Petitioner / A.1) had interalia observed that the Revision Petitioner / A.1's native place is Coimbatore and if he is let out, then he will not co-operate with the Court in making his appearance and also if he comes out, he would also destroy the

evidence of witnesses and there is a possibility of his absconding and as such, for releasing the Petitioner on bail, a serious objections were raised.

4. However, the trial court had exercised its discretion and taking note of the fact that charge sheet was filed and also bearing in mind the case documents and also the circumstances of the case came to the conclusion that keeping the Petitioner in custody was un-necessary and released him on bail imposing condition to the effect that he shall execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) and to produce the receipts etc., out of the two sureties, one surety must be a 'Blood Relative'.

5. The main grievance of the Revision Petitioner / A.1 appears to be that the Petitioner is a daily wage labourer and has no financial wherewithal to furnish two sureties that too for a sum of Rs.50,000/- as ordered by the trial court and as such, the said condition is a onerous, burdensome and stressful one.

6. The Learned Counsel for the Petitioner/A.1 proceeds to take a stand that the Petitioner is only breadwinner of the family and his parents are very old and suffering from old age related diseases. Also that they have no source of income to buy food and medicine.

7. At this stage, this Court aptly points that a Court of Law while ordering the release of a Person / Accused on bail or when it issues necessary direction to execute a bail bond, then, the Bail Bond Sums ought not to be, a burdensome, stressful, onerous, arbitrary and an excessive one. It cannot be gainsaid that when an individual is directed to execute the bond either with surety or without surety, or in case the Petitioner is handicapped in one way or other to furnish the sureties as required, then, in terms of ingredients of Section 445 of Cr.P.C., he has an alternative to offer cash surety. But it is to be remembered that amount to be specified by a Court of Law in this regard should not be on the higher side or in any event an excessive one.

8. Be that as it may, in view of the fact that the Revision Petitioner / A.1 is said to be a daily wage labourer and has no financial capacity to furnish two sureties for a sum of Rs.50,000/- (Rupees Fifty Thousand only) as ordered by the trial court, at this stage, this Court simpliciter without delving deep into the merits of the matter, to prevent an aberration of justice and to promote substantial cause of justice, directs the Petitioner / A.1 to approach the trial court by filing a necessary Petition for seeking modification of the conditions imposed within a period of one week from the date of a receipt of copy of this order. In the event of an Application /

Petition being filed, then, the Learned Judicial Magistrate No.II, Thiruppur is to take on file the said Application / Petition and to pass necessary orders in a dispassionate manner and that too with an open mind diligently within a period of four days thereafter. It is open to the Petitioner / A.1 to raise all factual and legal pleas before the Learned Judicial Magistrate No.II, Thiruppur at the time of hearing of the Application / Petition seeking for modification (to be filed by the Petitioner / A.1), and it is needless for this Court to make a significant mention that the trial court shall advert to each and every aspect of the plea / stand taken by the Petitioner / A.1 in this regard and to pass reasoned order on merits (of course outlining the process of reasoning in a qualitative and quantitative fashion) untrammelled and uninfluenced with any of the observations made by this Court in this Criminal Revision Petition.

With the above observation, this Criminal Revision Petition is disposed of.

ssd

-s/d-

Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1. The learned Judicial Magistrate Court - II,
Tiruppur

2. State represented by
Inspector of Police,
Mangalam Police Station,
Thiruppur District

+ 1 cc to Mr.J.Stalin, Advocate SR 26697

lrs(co)
prk4/5

Crl.R.C.No.694 of 2016

WEB COPY