

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.23500 of 2016

Kamaraj @ Raja

... Petitioner

-Versus-

State Rep. by
The Inspector of Police,
K-10, Koyambedu Police Station,
Chennai.

... Respondent

Petition filed under Section 482 of Cr.P.C. praying to set aside the order dated 06.10.2016 passed in Crl.M.P.No.16912 of 2016 by the Principal Judge, Chennai, confirming the order dated 28.09.2016 passed in Crl.M.P.No.2898 of 2016 passed by the learned V Metropolitan Magistrate, Egmore, Chennai and modify the condition imposed by order dated 28.09.2016 in Crl.M.P.No.2898 of 2016 by the learned V Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.J.N.Naresh Kumar

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to modify the condition attached to the order of bail granted by the learned V Metropolitan Magistrate, Egmore and confirmed by the learned Principal Judge, Chennai, with respect to deposit of amount.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent

3. The petitioner was arrested by the respondent police in connection with the case in Crime No.960 of 2016 registered for offences under Sections 406, 468 and 420 of IPC and was remanded to judicial custody. Later on, he was enlarged on bail by order dated 28.09.2016 by the learned V Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.2898 of 2016 on certain conditions which was, in fact, confirmed by

the Principal Judge, Chennai by order dated dated 06.10.2016 in Crl.M.P.No.16912 of 2016. Seeking to modify one of the conditions namely, the direction for deposit of Rs.1,00,000/- attached to the order of bail granted by the learned Metropolitan Magistrate, the petitioner is now before this court with the present petition.

4. The petitioner contended that despite his diligent efforts he could not able to mobilize a sum of Rs.1,00,000/- for deposit as directed by the trial court and that though he was granted bail as early as on 28.09.2016 he could not come out on bail.

5. In the considered opinion of this court, there is some force in the contention of the petitioner. In cases of this nature it cannot be said that the learned Magistrate is totally wrong in imposing such conditions. However, taking into consideration the fact that the petitioner is not able to enjoy the the fruits of order of bail, this court is of the view that it will be in the interest of justice if the condition relating to the deposit of amount is modified to the tune directing the petitioner to deposit a sum of Rs.50,000/- instead of Rs.1,00,000/-

6. On breach of any of the aforesaid conditions, the learned V Metropolitan Magistrate can take appropriate action against the petitioner in accordance with law, as laid down by the Hon'ble Supreme Court in P.K.Shaji v. State of Kerala, AIR 2005 SCW 5560. If the petitioner absconds during trial, it is open to file a fresh case against him under Section 229-A of IPC.

7. In the result, this criminal original petition is disposed of with a direction that the petitioner shall be released on bail in the event of depositing a sum of Rs.50,000/- to the credit of the case in Crime No.960 of 2016 before the learned V Metropolitan Magistrate besides complying with the other conditions. All other conditions imposed by the learned Magistrate shall remain unaltered. On such deposit being made by the petitioner, the learned V Metropolitan Magistrate is directed to invest the same in any one of the nationalized banks so that the amount will fetch interest and the disbursal of the amount with the accrued interest can be decided by the trial court at the end of trial.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Principal Judge,
Chennai.

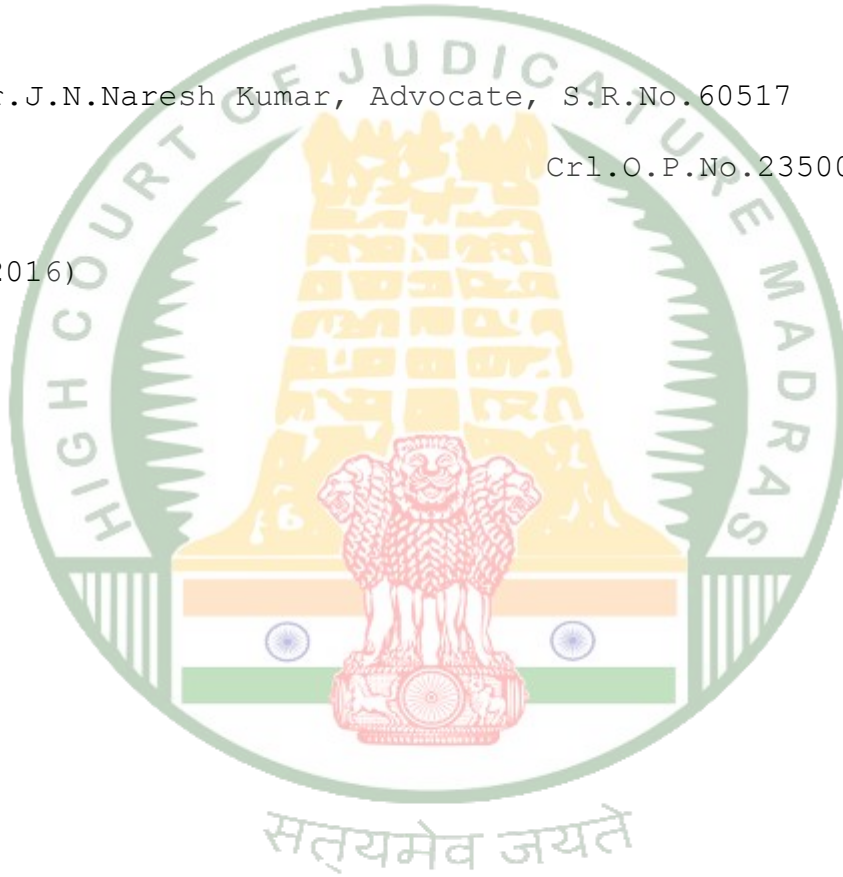
2.The V Metropolitan Magistrate,
Egmore, Chennai.

3.The Inspector of Police,
K-10, Koyambedu Police Station,
Chennai.

+1cc to Mr.J.N.Naresh Kumar, Advocate, S.R.No.60517

Cr1.O.P.No.23500 of 2016

MP1 (CO)
CA(26/10/2016)



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