

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2016

CORAM:

THE HON'BLE MR.JUSTICE P.DEVADASS
Crl.O.P. No.26621 of 2016

1. Rani
2. Mariya
3. Kannathal

.. Petitioners/Accused

Vs.

Inspector of Police,

T.6, Avadi Police Station

Respondent/complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the bail order condition in respect of furnishing proof of residence should furnish a document for their proof of residence issued by a statutory authority alone with the other conditions would remain as granted by the learned Principal District Sessions Judge, Thiruvallur in Crl.M.P.No.3811/2016 dated 5.10.2016 for their release on bail in Crl.M.P.No.5786 of 2016 dated 15.9.2016 in C.C.No.413 of 2016 on the file of the Judicial Magistrate No.II Poonamallee.

For Petitioner:Mr.A.Kalaichelvi

For Respondent:Mr.K.Mathan

Govt. Advocate (Crl.side)

O R D E R

Petition for modification of certain bail conditions imposed by the learned Judicial Magistrate No.II, Poonamalle, which was confirmed by the learned Principal Sessions Judge, Thiruvallur.

2. Petitioners were granted bail as early as on 15.9.2016 for offence under section 379 of IPC. They were asked to produce two sureties, who are blood related to them and also they were asked to produce residential certificate issued by a statutory authority. The Magistrate was gracious enough to cut the condition that the sureties should be related by blood. But stick to the other condition. The learned Principal Sessions Judge also affirmed it.

3. Resultantly, the poor people are languishing in jail although they were granted bail long back. It is because of the fact that they are unable to furnish the residential certificate as directed by both the counsels.

4. The learned Sessions Judge could have paid his personal attention in this matter. Even we are deputing duty counsel from the legal aid to the jail. They also failed to look into this matter. Had it been brought to my notice earlier, I would have ordered their release immediately. It is a clear case of system failure.

5. Rich people reap the benefit of law. They use Sections 437 to 439 of Cr.P.C fully. But this kind of voiceless people suffer in silence. In this connection, we shall note the guidance given by the Hon'ble Supreme Court in MOTIRAM VS STATE OF MADHYA PRADESH (AIR 1978 SC 1594) dealing with furnishing of bail bond. The Hon'ble Supreme Court directed that the bail condition should not be in such a manner in effect it must result in denial of bail.

6. Now, in this case, the petitioner's are stated to be belonging to Madurai. Whether the Court below expect them while committing crime, they should come with residential certificate. Landlords are committing crime. Landless are also committing crime. When they are not at all having any land or residence asking them to produce property documents is too harsh. It is a very pathetic case that they should come to High Court to get relief.

7. I direct that the petitioners shall be released forthwith on their own bond for Rs.5000/- each.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar

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To

1. The Principal Sessions Judge, Thiruvallur

2. Judicial Magistrate No.II Poonamallee.

3.The Public prosecutor, High Court, Madras.

4.Inspector of Police,
T.6, Avadi Police Station

+ 2 ccs to Mr.A. Kalaichelvi, Advocate SR.74159

Crl.O.P. No.26621 of 2016

SK(CO)
Eu 22.12.16



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