

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.7071 of 2016

ORDER :

The present application is filed under Section 482 Cr.P.C. seeking modification of the order dated 16.04.2016 passed in Crl.M.P.No.1879 of 2016 in C.C.No.221 of 2015 on the file of the Judicial Magistrate of First Class, Salur.

The facts which lead to filing of the present petition are as under:

The petitioner herein is accused No.4 in Crime No.98 of 2014 of Salur Town Police Station. A charge sheet came to be filed against the petitioner and three others for the offences punishable under Sections 498-A, 109 read with 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. Non-bailable warrants came to be issued against all the accused at the time of taking cognizance of the case since they were shown as absconding in the charge sheet.

Subsequently, the petitioner approached this Court seeking quashing of proceedings in C.C.No.221 of 2015. By an order dated 15.09.2015 this Court vide Crl.P.No.9299 of 2015 granted interim stay of trial in the above C.C. for a period of five weeks. As the stay could not be extended, non-bailable warrants came to be executed. Pursuant to which, the petitioner was remanded to judicial custody on 15.04.2016. An application for bail vide Crl.M.P.No.1879 of 2016 came to be filed stating that the petitioner has nothing to do with the offence as he is working in Malaysia and when he came down to India to attend the marriage of his brother, he was taken into custody. It was urged that as the

marriage of brother of the petitioner was scheduled to be held on 18.04.2016, he sought for bail.

After considering the submissions, the trial Court allowed the petition and enlarge the petitioner on bail on his executing a bond for Rs.10,000/- with two sureties for a like sum each to the satisfaction of this Court. Further the petitioner was directed to deposit his original passport before the Court and that he should appear before the Court as and when required for expeditious disposal of the main case. Pursuant to the said order, the petitioner herein deposited his passport into the Court and got himself released on 17.04.2016.

The main argument advanced by Sri D.V.Sita Rama Murthy, learned Senior Counsel representing Pillix Law Firm is that the petitioner would loose his employment if he fails to report before his employer on Monday. He further submits that the petitioner will come back within four weeks and participate in the trial. He also submits that his client is willing to furnish suitable security and will abide by any conditions imposed by this Court.

Learned Additional Public Prosecutor opposed the application, but however stated that if the passport is directed to be released necessary and appropriate conditions may be imposed, securing his presence.

As seen from the record, the offences alleged against the petitioner and three others is one under Sections 498-A, and 109 read with 34 IPC and Sections 3 and 4 of the Dowry Prohibition Act. Initially this Court granted interim stay of all further proceedings in C.C.No.221 of 2015 in an application filed by the petitioner seeking quashing of the proceedings in the above C.C.

Since the stay was not extended, non-bailable warrants came to be executed and the petitioner was arrested on 15.04.2016. The record further discloses that the Public Prosecutor endorsed on the bail application filed by the petitioner as “notice received, no objection.”. Infact the informant also filed an application under Section 301 (2) Cr.P.C. through her counsel seeking permission to prosecute her case through private counsel by assisting the Public Prosecutor.

Having regard to the facts and circumstances of the case and taking into consideration the nature of allegations made against the petitioner, who is the brother-in-law of accused No.1 (husband), the request of the petitioner can be considered on certain terms and conditions.

Accordingly, the Criminal Petition is allowed, directing the trial Court to return the original passport belonging to the petitioner, which is deposited before the said Court on 17.04.2016, on the following terms and conditions.

- 1) The petitioner shall furnish a cash deposit of Rs.10.00 lakhs (Rupees ten lakhs only) as security for his return to India within a period of six (06) weeks from today. If he fails to return to India, the amount of RS.10.00 lakhs deposited shall be handed over to the informant. The said amount of ten lakhs shall be deposited before the Court at the time of making an application/memo for release of the passport.
- 2) The petitioner shall also deposit the passport of his wife, who is accused No.3 in the case before the trial Court, which shall be returned after the return of accused No.4 to India.
- 3) The petitioner shall furnish his proof of address and place of stay in Malaysia, including

his telephone number, to the trial Court.

JUSTICE C. PRAVEEN KUMAR

29.04.2016

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