

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.11.2017
CORAM
THE HONOURABLE MR. JUSTICE M.S. RAMESH
CRL.O.P.No.24813 of 2017

Babu

..Petitioner

Vs

State by The Inspector of Police,
D.C.B. Police Station,
Ooty.
(Crime No.3 of 2016)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order in Crl.M.P.No.750 of 2017 in Crl.M.P.No.348 of 2017 dated 03.10.2017 by the learned Sessions Judge of the Nilgiris at Udhagamandalam and consequently to modify the condition that the petitioner/1st accused shall deposit a sum of Rs.5,00,000/- before the Judicial Magistrate Court, Kotagiri and allow this Original Petition.

For Petitioner : Mr. J. Franklin

For Respondent : Mr.C. Iyyapparaj
Additional Public Prosecutor

O R D E R

This petition has been filed for a direction to set aside the order in Crl.M.P.No.750 of 2017 in Crl.M.P.No.348 of 2017 dated 03.10.2017, by the learned Sessions Judge of the Nilgiris at Udhagamandalam and consequently to modify the condition that the petitioner/1st accused shall deposit a sum of Rs.5,00,000/- before the Judicial Magistrate Court, Kotagiri.

2.By an order dated 10.01.2017 passed in Crl.M.P. No.4292 of 2016, the learned Judicial Magistrate, Kotagiri, while granting bail, had imposed onerous condition of directing the petitioner to deposit a sum of Rs.10,00,000/- along with two sureties, of which, one must be a government servant.

3.Aggrieved against the same, the petitioner had filed a petition seeking for modification, before the learned Sessions Judge, Nilgiris in Crl.M.P.No.348 of 2017. By an order dated 19.04.2017 in Crl.M.P.No.348 of 2017, the condition to deposit a sum of Rs.10,00,000/- was modified to Rs.5,00,000/-. Since the petitioner was unable to comply with the condition, he had filed an another application, seeking for further modification, which came to be rejected, by an order dated 03.10.2017, stating that two petitions were not maintainable. Hence, the present petition

has been filed.

4. On a perusal of the first order, directing the petitioner to deposit a sum of Rs.10,00,000/- and to produce two sureties, out of which, one should be government servant is not based on any reason. While imposing any onerous condition, there must be some justification, as to why the petitioner is directed to deposit the amount. In the absence of the same, such onerous condition may not be imposed. In view of the same, subsequent modification to Rs.5,00,000/- may also not be sustained.

5. In my view, there is no provision of imposing onerous conditions prescribed in the Code of Criminal Procedure. This Court had already taken a view, that onerous condition cannot be made at all, while granting bail. In the result, the Criminal Original Petition stands allowed.

6. Though the petitioner has challenged the order dated 03.10.2017 passed in Crl.M.P.No.750 of 2017, it would be appropriate to mould the relief by setting aside the condition imposed in the order of the Learned Judicial Magistrate, Kotagiri dated 10.01.2017 in Crl.M.P.No.4292 of 2016, directing the petitioner to deposit Rs.10,00,000/- and to produce two sureties, of which, one must be a government surety. The petitioner shall execute a bond for Rs.10,00,000/- to the satisfaction of the learned Judicial Magistrate, Kotagiri in connection with Crime No.3 of 2016 and produce two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each. The condition directing the petitioner to produce one government surety shall stand deleted.

7. Secondly, further modification order dated 19.04.2017 passed by learned Sessions Judge, Nilgiris, Udthagamandalam in Crl.M.P.No.348 of 2017 is also set aside. In the result, the petitioner shall be enlarged on bail in connection with Crime No. 3 of 2016, on condition that he shall execute a bond for Rs.10,00,000/- along with two sureties for a sum of Rs.10,000 each. There shall be further condition to the petitioner, to report before the respondent police daily at 10.00 a.m. for a period of 15 days and thereafter as and when required.

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8.In view of the memo filed by the petitioner, registry is directed to amend the phrase of the petitioner confined in Sub-Jail, Coonoor instead of Central Prison, Coimbatore.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

nl/rli

To

- 1.The Sessions Judge of the Nilgiris,
Udhagamandalam
- 2.The Judicial Magistrate, Kotagiri
- 3.The Inspector of Police,
D.C.B. Police Station,
Ooty.
- 4.The Superintendent Sub Jail
Coonoor
- 5.The Superintendent Central Prison
Coimbatore
6. The Additional Public Prosecutor,
High Court, Madras.

+1 cc to M/s.J.Franklin Advocate sr 81317

CRL.O.P.No.24813 of 2017

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