

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.25068 of 2017

A.Ziyaudeen

... Petitioner

Vs.

The State of Tamil Nadu
Represented by
The Inspector of Police,
W-10, Flower Bazaar All Women Police Station,
Chennai - 600 001.
(Crime No. 2 of 2017)

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the condition imposed upon the petitioner in Crl.M.P.No.16809 of 20107 by the learned Principal Sessions Judge, Chennai by order dated 07.11.2017 as far as it directs the petitioner shall also deposit a sum of Rs.5,00,000/- to the credit of Cr.No.2 of 2017 before the said Court and the final order in respect of the amount will be passed at end of the criminal proceedings by the Trial Court.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr.C.Iyyapparaj

Additional Public Prosecutor

O R D E R

The petitioner, who had been arrayed as an accused in Crime No.2 of 2017 was granted anticipatory bail on pre-condition to deposit a sum of Rs.5,00,000/- by the learned Principal Sessions Judge, Chennai on 07.11.2017. Seeking to modify the same, the present petition had been filed.

2.Heard Mr.E.Sathiyaraj, learned counsel appearing for the petitioner and Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondent.

3.This Court had an occasion to deal with the validity of onerous conditions being passed while granting orders of bail or anticipatory bail or release of vehicles in Thiruvassagam Vs. State rep. by the Inspector of Police, B1, North Beach Police Station, Chennai-600 001 in Crl.O.P.No.20483 of 2017 dated

05.10.2017. By relying on various judgments of the Hon'ble Supreme Court as well as this Court, it was held therein that the Courts are not empowered to impose onerous conditions. Following the rationale laid down in the various orders of the Hon'ble Supreme Court, the onerous condition came to be modified in the said order.

4.I am of the view that the present condition imposed by the trial Court is a similar onerous condition and in view of the stand taken in the aforesaid order, the present petition seeking for modification also requires consideration.

5.In the result, the Criminal Original Petition stands allowed. Consequently, the condition imposed on the petitioner in Crl.M.P.No.16809 of 2017 by its order dated 07.11.2017 directing the petitioner to deposit a sum of Rs.5,00,000/- shall stand modified as follows:

"(ii) In the event of arrest or on his surrender before the learned VIII Metropolitan Magistrate, Chennai on or before 21.11.2017 failing which the order shall stand cancelled; the petitioner is ordered to be released on bail on his executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a likesum to the satisfaction of the said Magistrate.

(iii) the petitioner shall execute a bond of undertaking to the tune of Rs.5,00,000/- (Rupees five lakhs only) instead of depositing a sum of Rs.5,00,000/-."

All other conditions imposed in the order dated 07.11.2017 in Crl.M.P.No.16809 of 2017 shall remain intact.

20.11.2017
rts

This matter having been listed under the caption for "being mentioned" on 08.12.2017 pursuant to the order of this court dated 20.11.2017 and made herein in the presence of the aforesaid counsels on the either side, the court made the following order:-

Today, this Criminal Original Petition is listed under the caption 'for being mentioned' at the instance of the learned counsel for the petitioner.

2. It is submitted by the learned counsel for the petitioner that, since the petitioner has received a copy of this Court order dated 20.11.2017, only on 05.12.2017, he could not comply with the conditions made by this Court's earlier order dated 20.11.2017. Therefore, as prayed for, the petitioner is permitted to surrender before the learned VIII Metropolitan Magistrate, Chennai, within a period of one week from the date of receipt of a copy of this order.

3. Registry is directed to issue fresh order copy to the parties concerned after carrying out necessary corrections.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Chennai.
2. The VIII Metropolitan Magistrate,
Chennai.
3. The Inspector of Police,
w-co, Flower Bazaar,
All Corner Police Station,
Chennai.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.E.Sathiyaraj, Advocate, S.R.No.87631

CrI.O.P.No.25068 of 2017

RK(CO)
RRK(05/12/2017)
TR(13/12/2017)

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