

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 13.12.2017****CORAM****THE HONOURABLE MR. JUSTICE M.S.RAMESH****Crl.O.P.No.26395 of 2017**

Arun

..Petitioner /Accused

Vs.

The state represented by
Sub-Inspector of Police,
Dhanavanthiri Nagar Police Station,
Puducherry.

..Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to modify the condition that Crl.M.P.No.1606 of 2017, Spl. Judge, POCSO Puducherry the petitioner/accused should produce two sureties for Rs.10,000/- out of which one surety must be a government servant and instead allow the Petitioner/Accused to produce any surety with ration card or any other identity proof without insisting on government servant as surety or surety with property document.

For Petitioner

: Mr.R.Mugundhan

For Respondent

: Mr.C.Iyyappa Raj
Additional Public Prosecutor**ORDER**

The petitioner, who had been arrayed as an accused in Crime No.60 of 2017 was granted bail on pre-condition to produce two

sureties, out of which, one of the sureties must be a Government Servant. Seeking to modify the same, the present petition had been filed.

2. Heard Mr.R.Mugundan, learned counsel appearing for the petitioner and Mr.C.Iyyappa Raj, 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 ***Thiruvasagam 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.1606 of 2017 by its order dated 07.08.2017 shall stand modified as follows:

"The petitioner/accused shall produce any two sureties within one week from the date receipt of a copy of this Order."

All other conditions imposed in the order dated 07.08.2017 in Crl.M.P.No.1606 of 2017 shall remain intact.

13.12.2017

Index : Yes/No
Internet : Yes/No
dh

Note: Issue Order Copy on 19.12.2017

To

- 1.The Special Judge,
POCSO Act, Puducherry.
- 2.The Sub-Inspector of Police,
Dhanavanthiri Nagar Police Station,
Puducherry.
- 3.The Public Prosecutor,
High Court, Madras.

M.S.RAMESH.J,
dh



Crl.O.P.No.26395 of 2017

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