

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 21.12.2017****CORAM****THE HONOURABLE MR. JUSTICE M.S.RAMESH****Crl.O.P.No.28721 of 2017**

M.Abirmakrishnan @ Hariramakrishnan
Vs.

..Petitioner

State rep. by
The Inspector of Police,
Ambattur Police Station,
Chennai.
(Crime No.1304 of 2016)

..Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to modify the condition by the order passed by the learned Judicial Magistrate, Ambattur made in C.M.P.No. 3468 of 2015 dated 03.09.2015.

For Petitioner : Mr.Vijayasankar

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

The petitioner, who had been arrayed as accused in Crime No.1304 of 2016 was granted interim custody of vehicle Tata Truck, bearing Registration No.TN-20-CZ-9497 on pre-condition to deposit a

sum of Rs.1,00,000/- by the learned Judicial Magistrate, Ambattur on 03.09.2015. Seeking to modify the same, the present petition had been filed.

2.Heard Mr.A.Vijayasankar, learned counsel appearing for the petitioners 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 ***Thiruvagasam 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 petitioners in C.M.P.No.3468 of 2015 by its order dated 03.09.2015 directing the petitioners to deposit a sum of each Rs.1,00,000/- to the credit of Crime No.1304 of 2015 shall stand modified as follows:

"the petitioner shall execute a bond of undertaking each to the tune of Rs.1,00,000/- instead of depositing a sum of Rs.1,00,000/-.

All other conditions imposed in the order dated 03.09.2015 in C.M.P.No.3468 of 2015 shall remain intact.

21.12.2017

Index : Yes/No
Internet: Yes/No
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Note :Issue order copy on 22.12.2017

To

- 1.The Judicial Magistrate,
Ambattur.
- 2.The Inspector of Police,
Ambattur Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

M.S.RAMESH.J,

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