



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

CrI.O.P.(MD)No.12307 of 2017

G.A.Senthilkumar

... Petitioner/A2

Vs.

State Rep.by
The Inspector of Police,
City Crime Branch,
Trichy.

... Respondent

PRAYER: The Petition filed under Section 439(1) (b) of Cr.P.C., to modify the condition of depositing the amount imposed by the learned Judicial Magistrate No.IV, Trichy in Cr.M.P.No.7931 of 2017 dated 04.09.2017.

For Petitioner	: Mr.M.Suresh
For Respondent	: Mr.A.Ramar, APP

O R D E R

This Criminal Original petition is filed to modify conditional order dated 04.09.2017 in Cr.M.P.No.7931 of 2017 passed by the learned Judicial Magistrate No.IV, Trichy, directing the petitioner to deposit a sum of Rs.15 lakhs.

2.The petitioner is arrayed A2 and he was enlarged on default bail by the Judicial Magistrate No.IV, Trichy in Cr.M.P.No.7931 of 2017 on 04.09.2017 since the respondent has not chosen to file charge sheet. At the time of granting default bail to the petitioner, he was directed to deposit a sum of Rs.15 lakhs before the Trial Court. As against the said condition, the present petition is filed seeking modification.

3.The learned Additional Public Prosecutor appearing for the respondent would submit that the case of the petitioner is that the accused are running a man power company and collected amount from various persons and sending them to foreign country. After collecting the amount from the de facto complainant, they failed to send the de facto complainant to abroad and also failed to repay the amount. The petitioner along with his wife moved bail petition in CrI.O.P.(MD)No.9105 of 2017 before this Court and the bail respect of this petitioner was dismissed by this Court <https://hcservices.courtserviceindia.org/> to the petitioner's wife by directing her to deposit a sum of Rs.10 lakhs within 15 days. Since the wife failed to deposit Rs.10 lakhs within time as directed by this



Court in its order dated 29.08.2017, the bail in respect of this petitioner was also dismissed by this Court.

4.The learned counsel for the petitioner submitted that while granting default bail, the petitioner herein was directed by learned Judicial Magistrate No.IV, Trichy in its order dated 04.09.2017 in CrI.M.P.No.7931 of 2017 to deposit a sum of Rs.15 lakhs which is an onerous. In support of his contention, he relied on a decision reported in 2009 CRL.J.2271 (*Ramathal and others Vs. Inspector of Police and another*), wherein, the Hon'ble Supreme Court has held that imposition of onerous condition of deposit of Rs.32 lacs for granting anticipatory bail is improper. He further relied on a decision of this Court in CrI.O.P.No.16722 of 2017 dated 06.09.2017 (*Devi and another Vs. The Inspector of Police, Korukkupet, Chennai*), which is squarely applicable to this case, wherein this Court has held that under Section 167(2) of Cr.P.C.is an indefeasible right and such a right cannot be extinguished by imposition of onerous conditions.

5.In view of the above, the condition No.1 alone in the order dated 04.09.2017 in CrI.M.P.No.7931 of 2017 stands deleted. Accordingly, this Criminal Original petition is ordered.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.IV, Trichy.

2.The Inspector of Police,
City Crime Branch,
Trichy.

+One cc to Mr.M.Suresh, Advocate, SR.No.79959

nbj

RL/4C/2P/SKN/RSK/SAR2/27/9/2017

CrI.O.P. (MD) No.12307 of 2017