



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2017

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WEB COPY

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.16717 of 2017

1.Vidhu Kumar

2.Velappan Pillai

.. Petitioners/Accused Nos.1&2

Vs.

State of Tamil Nadu rep. by
The Inspector of Police,
Kottikodu Police Station,
Kanyakumari District.

.. Respondent/ Respondent

PRAYER: Criminal Original Petition filed under Section 439(1) (b) of the Code of Criminal Procedure, to set aside or modify the condition imposed against the petitioners in Crl.M.P.No.4123 of 2017, by an order, dated 24.11.2017, by the learned District and Sessions Judge, Kanyakumari Division, Nagercoil.

For Petitioners : Mr.S.Satheeshkumar

For Respondent : Mr.K.Anbarasan
Government Advocate (Crl.side)

ORDER

The petitioner has filed this modification petition under Section 439(1) (b) Cr.P.C. alleging that the Court below has granted anticipatory bail to the petitioners by imposing a condition that the petitioners shall stay at Salem and appear before the Inspector of Police, Fairlands Police Station (Azhagapuram), daily twice at 10.00 a.m and 6.00 p.m., until further orders and also the petitioners shall not leave the Fairlands Police Station limit without the permission of the Inspector of Police, Fairlands Police Station and on further condition that the petitioners shall not enter into Kanniyakumari District without getting permission of the Court below.

2. The learned counsel for the petitioners submitted that the second petitioner aged about 70 years and without considering his age, the Court below imposed the onerous condition against the petitioners to stay at Salem is unsustainable in law. Hence, he



filed this present petition for modification of the said condition imposed by the Court below.

3. Per contra, the learned Government Advocate (Crl.side) on instructions would submit that at the time of hearing the anticipatory bail petition, the petitioners prayed before the Court below that they were ready to abide by any condition to be imposed by the Court and prayed for anticipatory bail. Therefore, by consent of the petitioners, the learned Sessions Judge imposed such condition to stay at Salem and appear and sign before the Inspector of Police, Fairland Police Station, daily twice until further orders and on further condition that without leave of the learned Sessions Judge the petitioners should not enter into the Kanyakumari District. He further submitted that the learned Sessions Judge imposed the condition after considering the case put forth by the petitioners, since the disputed property in which the petitioners and the defacto complainant involved is situated in that area, if the petitioners entered there, ultimately it will be resulted in law and order problem in the particular area. Therefore, the learned Sessions Judge imposed such condition against the petitioners. Unfortunately, the petitioners did not comply any of the conditions even a single day. Without complying the conditions even a single day, the petitioners approached this Court to modify the same does not arise at this stage.

4. The learned counsel for the petitioners submitted that the learned Sessions Judge passed an order dated 24.11.2017, the order copy was made ready on 28.11.2017, and thereafter the petitioners had to appear to comply the condition imposed by the Sessions Court. But however, due to old age of the second petitioner, the petitioners could not comply the condition. In support of his contention, he produced the medical certificate of the second petitioner.

5. Considering the facts and circumstances of the case and also considering the fact that at the time of praying anticipatory bail, the petitioners were ready to abide by any condition to be imposed by the Court, I am of the view that after getting an order in favour of the petitioners, they can not say that the Court below has imposed an onerous condition against them and in the present case, though the order was passed on 24.11.2017, the order copy was despatched to the petitioners on 28.11.2017. Subsequently, without complying the condition even for a single day, filing this modification petition before this Court on 30.11.2017 clearly shows that the petitioners are not ready to comply the conditions.

6. In view of the above, I am not inclined to entertain the petition. Accordingly, the modification petition is dismissed. However, the petitioners are directed to comply the condition imposed by the learned Sessions Judge, Kanniyakumari



District, made in Cr.M.P.No.4123 of 2017, dated 24.11.2017, from 15.12.2017 onwards.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Sessions Judge,
Kanyakumari District.
- 2.The Inspector of Police,
Kottikodu Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.S.Satheeshkumar , Advocate in SR No. 92052

PJL
AE/SV MMS/SAR2/13.12.2017/3P/5C

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11.12.2017