



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE **P.N. PRAKASH**

CRL.O.P. (MD) No. 3175 of 2017

WEB COPY

L.Maria Arockia Jegan

: Petitioner

-Vs-

State rep.by,
The Inspector of Police,
Kottar Police Station,
Kottar, Nagercoil,
Kanyakumari District.
(in crime No.45 of 2017)

: Respondent

PRAYER: Petition is filed under Section 439(1)(b) of the Criminal Procedure Code to modify the order passed in Crl.M.P.No.858 of 2017 dated 02.03.2017 on the file of learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District.

For Petitioner

: Mr.L.George Paul Anto

For Respondent

: Mr.K.Anbarasan

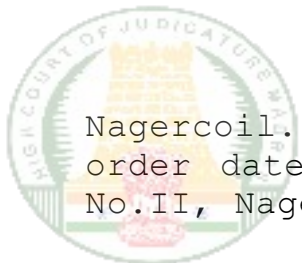
Government Advocate (Crl.side)

O R D E R

Admittedly, the petitioner is an accused in Cr.No.45 of 2017 for the offences under Sections 379 I.P.C. and Section 4(1), (1A), 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 dated 27.01.2017. The seized vehicles were produced before the learned Judicial Magistrate No.II, Nagercoil. By order dated 02.03.2017 in Crl.M.P.No.858 of 2017 in Cr.No.45 of 2017 was pleased to give interim custody of the same to the petitioner herein who is said to be the owner of the vehicles, in the light of the law laid down by the Honourable Supreme Court in Sunderbhai Ambalal Desai Vs. State of Gujarat reported in 2003(1) CTC 175 on certain conditions. One of the conditions is that the petitioner should execute a bond for Rs.50,00,000/- (Rupees Fifty Lakhs only) with one surety with which the petitioner is aggrieved and therefore he is before this Court.

2. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The learned Counsel for the petitioner submitted that the petitioner has not been able to procure any person to stand as surety for the said sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) and hence he is not able to enjoy the fruits of the order dated 02.03.2017 passed by the learned Judicial Magistrate No.II,



Nagercoil. Hence, the petitioner seeks for modification of the order dated 02.03.2017 passed by the learned Judicial Magistrate No.II, Nagercoil.

4. This Court gave anxious consideration on the submissions made by the learned Counsel for the petitioner.

5. In the facts and circumstances of the case, this Court does not find any infirmity in the order dated 02.03.2017 passed by the learned Judicial Magistrate No.II, Nagercoil. However the fact remains that from 02.03.2017, the petitioner has not been able to take delivery of the vehicles because he is not able to procure any person to stand surety for Rs.50,00,000/- (Rupees Fifty Lakhs Only). Therefore, this Court is of the view that the condition No.1 in the order dated 02.03.2017 passed by the learned Judicial Magistrate No.II, Nagercoil can be modified to the effect that the petitioner shall execute a bond for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only) with supporting property documents and in addition to that he shall furnish two sureties for a sum of Rs.50,000/- (Rupees Fifty Thousand only) each. The rest of the conditions shall remain the same.

6. With the above modifications, this Criminal Original Petition is ordered accordingly.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II, Nagercoil,
Kanyakumari District.

2.The Inspector of Police,
Kottar Police Station,
Kottar, Nagercoil,
kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.L.George Paul Anto, Advocate SR.No.18065

CRL.O.P.(MD) No.3175 of 2017

Dated: 27.03.2017