



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2017

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE J.NISHA BANU

CRL.O.P.(MD)Nos.4540 and 4527 of 2017

In both petitions:

- 1.Mytheen Nagoor Meeran @ Mohaideen Nagoor Meeran
- 2.Tuslim Arif @ Arif
- 3.Thoufeek Ahamed @ Thoufeek
- 4.Banazeer @ Banazar Khan .. Petitioners/Petitioners

Vs

The State reprented though the
Inspector of Police,
Suchindrum Police Station,
Kanyakumari District.
(Crime No.11 of 2017) .. Respondent/Complainant

PRAYER in Cr1.O.P.(MD) No.4540 of 2017: Criminal Original Petition is filed under Section 439(1)(b) of the Code of Criminal Procedure, praying to set aside condone the absence dismissal order passed by the learned Sessions Judge, Kanyakumari District at Nagercoil in Cr1.M.P.No.1193 of 2017 dated 05.04.2017.

PRAYER in Cr1.O.P.(MD) No.4527 of 2017: Criminal Original Petition is filed under Section 439(i)(b) of the Code of Criminal Procedure, praying to set aside the condition relaxation dismissal order passed the learned Sessions Judge, Kanyakumari District at Nagercoil in Cr1.M.P.No.1195 of 2017 dated 05.04.2017, further relax the condition imposed by the learned Sessions Judge, Nagercoil in Cr1.M.P.No.576 of 2017 dated 14.02.2017.

In both petitions:

For Petitioners : Mr.S.M.A.Jinnah
For Respondent : Mrs.S.Prabha
Government Advocate(Cr1. Side)

O R D E R

These petitions have been filed under Section 439(i)(b) Cr.P.C., to set aside the order rejecting to condone the absence passed in Cr1.M.P.No.1193 of 2017 dated 05.04.2017 and to set



aside the order dismissing the relaxation petition by the learned Sessions Judge, Kanyakumari District at Nagercoil and for relaxing the condition imposed by the learned Judge.

2. Heard the learned counsel for the petitioners and also the learned Government Advocate (Crl. Side) appearing for the respondent/State.

3. The learned counsel for the petitioners would submit that the petitioners were granted anticipatory bail by the Sessions Court in respect of Crime No.11 of 2017 and the Sessions Court granted anticipatory bail on 14.02.2017 on condition to stay at Madurai and to report before Anna Nagar Police Station and the petitioners executed sureties on 16.02.2017. In the meantime, the petitioners were falsely implicated in another case in Crime No.23 of 2017 and therefore, they could not stay at Madurai to report before Anna Nagar Police Station. Therefore, the petitioners filed a petition seeking to condone their absence from 17.02.2017 to 14.03.2017. The learned Sessions Judge dismissed the said petition considering the serious objection raised on the side of the prosecution.

4. The learned counsel for the petitioners submits that due to false implication of the petitioner another case only, the petitioner could not comply with the condition and he prays for setting aside the order.

5. The learned counsel for the petitioners would further submit that due to economical position of the petitioners, they could not stay at Madurai to comply with the condition and therefore, he filed another petition for modification and the same was also dismissed by the Sessions Judge. The learned counsel seeks to set aside the said order also and prays for modification.

6. Considering the facts and circumstances of this case, the orders passed in Crl.M.P.Nos. 1193 and 1195 of 2017 by the learned Sessions Judge, Kanyakumari District at Nagercoil are set aside. Accordingly, non appearance of the petitioners is condoned and the condition to stay at Madurai and to appear before Anna Nagar Police Station is relaxed.

7. In the result, the Criminal Original Petition are allowed.

Sd/-

Assistant Registrar (Records)

/True Copy/



To

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

CM

TE/JC : 08/05/2017 : 3P/4C

CRL.O.P. (MD) Nos.4540 and 4527 of 2017
28.04.2017