



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 03.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Crl.OP(MD)No.9657 of 2017

Orders Reserved on 26.07.2017

Lataji : Petitioner / Petitioner / A15

Vs.

State thro

The Deputy Superintendent of Police,

EOW-II Police Station,

Madurai District

(Crime No.4 of 2014)

: Respondent / Respondent /
Complainant

Prayer: Petition is filed under Section 439(1)(b) of Cr.P.C., praying to modify the condition in Crl.M.P.No.2923 of 2017 in C.C.No.11 of 2015, on the file of the learned Judge, Special Court of TNPID Act Cases, Madurai, dated 18.07.2017.

For Petitioner :Mr.N.Ananthapadmanabhan

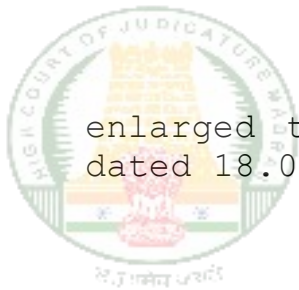
For Respondent :Mr.A.Ramar

Additional Public Prosecutor

O R D E R

This Criminal Revision is preferred praying to modify the condition in Crl.M.P.No.2923 of 2017 in C.C.No.11 of 2015, on the file of the learned Judge, Special Court of TNPID Act Cases, Madurai, dated 18.07.2017.

2. The petitioner herein is arrayed as A15 in C.C.No.11 of 2015, pending on the file of the learned Judge, Special Court under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishment) Act, 1997, Madurai. NBW was issued against the accused on 05.10.2016 and she was arrested on 14.10.2016 and she was granted 4 months interim bail by this Court in Crl.O.P(MD)No.20517 of 2016 on 26.10.2016 and again when she approached this Court for bail, the same was dismissed on 07.03.2017. NBW has been pending against the accused and she surrendered before the trial Court on 12.07.2017 and now she is in judicial custody. The Petitioner filed Cr.M.P.No.2923 of 2017 in C.C.No.11 of 2015 before the trial Court and the trial Court has



enlarged the accused with the following conditions in its order dated 18.07.2017:-

(i) The Petitioner / A15 is released on bail on executing a bond for Rs.25,000/- along with two sureties for a likesum and one among the surety must be a blood relative of the petitioner / A15.

(ii) The petitioner / A15 is directed to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) before the trial Court.

(iii) The petitioner is directed to appear before the respondent / Police weekly twice ie., Monday and Friday by 10.00 a.m., and to appear before the trial Court and on summons for every hearing.

(iv) The Petitioner / A5 shall not hamper or tamper the witness

(v) The Petitioner / A15 shall appear before the Investigating Agency / E.O.W-II, Madurai, for interrogation, whenever the Petitioner / A15 required by the Police.

3. Aggrieved by the order of imposing to deposit Rs.2,00,000/- before the trial Court, the petitioner filed the present petition before this Court, seeking modification of the said condition, under Section 439(1)(b) of Cr.P.C.,

4. The learned counsel appearing for the petitioner would submit that the onerous condition of imposing Rs.2,00,000/- to be deposited by the petitioner in a bail order granted by the trial Court is illegal and cannot be sustained in the eye of law and that the money remained in the Bank account of the Company in which the petitioner was belatedly appointed as Director has been impounded to the extent of 21 Crores and also a Committee was formed under the head of District Revenue Officer under the provisions of the Act, to take custody of the immovable assets of the Company and the assets that stood in the name of the Directors and also 330 Acres of land have been identified and taken into custody and nothing found to be kept in any account maintained by the petitioner and the petitioner is a house wife. He would further contend that the defraud said to have been taken place between 2009-2010, but the petitioner acted as Director only after 06.05.2014 and the deposit amount is too high and she does not have any valid support from the family and moreover her husband also has been incarcerated in prison and the trial Court has

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deprived the petitioner of the right of the petitioner to avail the benefit enlarge on bail by imposing such condition to deposit that cannot be met out by the petitioner and the petitioner has delivered a child and



she deserves sympathy having 4 months baby, who is searching for her mother.

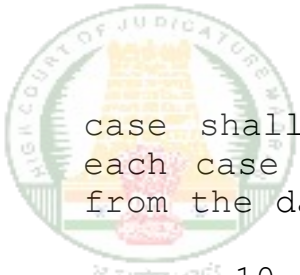
5. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that there are totally, as on date 17 accused in C.C.NO.11 of 2015, pending before the Special Court for TNPID Cases, Madurai and the first charge sheet was filed on 14.09.2015, after receipt of complaints from 2777 depositors against A1 to A4 MRDT Company Groups and A5 to A13 and on further investigation, after receipt of complaints from 94 depositors and arrested A14 to A16 inclusively, the petitioner herein arrayed as A15, for which additional charge sheet filed on 07.02.2015 on further investigation, the second additional charge sheet was also filed on 03.09.2016, after receipt of 160 complaints and there are 3032 depositors in the case and till date 4500 complaints were received to the tune of Rs.72,00,00,000/-

6. Perused the materials on record and considered the rival submissions made by either sides.

7. Admittedly, the petitioner is arrayed as A15 cited in the first Additional Charges sheet and she was appointed as one of the Director of A1 Company, on 06.05.2014. Similar Accused No.14 viz., Rajalakshmi and Accused No.17 viz., Venkataraman, who were appointed as Directors of the said A1 Company on 06.05.2014 are granted bail by this Court in its order dated 25.11.2016 in CrI.O.P(MD)No.22394 of 2014 without any condition of deposit of amount before the trial Court. However, the impugned order of deposit of Rs.2,00,000/-, as one of the bail condition, to be complied with by the petitioner from coming out of bail from the prison is imposed by the trial Court, considering the default amount of Rs.47,98,55,314/- and also freezing of movable and immovable and also the fact of receipt of 4500 complaints till date for the tune of Rs.72/- Crores.

8. The learned counsel appearing for the petitioner relied on the decision of this Court in **M.Govindaraj Vs. Inspector of Police, Economic Offences Wing II, Coimbatore reported in (2006 (2) MLJ (CrI.) 1011)** held in the ratio decidendi "It is well settled that while exercising the discretion to impose conditions at the time of granting bail such discretion should be exercised judicially and the condition should be such that the concerned petitioner is able to comply it.

9. It is stated in the above case cited supra in which the Special Judge imposed a condition that the petitioner shall deposit a sum of Rs.2,00,000/- in each cases into Court and out of



case shall be paid in 5 monthly instalments at Rs.30,000/- in each case and first such instalment shall be paid within 30 days from the date of release from the custody.

10. In the above case it is held that the condition that the petitioner should pay Rs.2,00,000/- in each case is onerous and would cause serious prejudice to the defence of the petitioner / accused and the said conditions are ordered to be deleted. In the case on hand, the trial Court has directed the petitioner to deposit Rs.2,00,000/- before that Court at the time of executing the bond for their release.

11. The learned counsel appearing for the petitioner would submit that at the time of hearing the petition that the deposit amount is too high and onerous one and the impugned bail order with condition to deposit such amount is passed under Section 437 of Cr.P.C., by the trial Court, which is Special Court for TNPID Act Cases. It is also not denied that a search was made in the house of the petitioner and no incriminating evidence to any accumulation of wealth was found. The counsel for the petitioner was voluntarily agreed to deposit Rs.50,000/-, since the deposit of Rs.2,00,000/- is too high and onerous one.

12. Considering the facts and circumstances of the case and also voluntary willingness of the petitioner to deposit Rs.50,000/- into Court, this Court is inclined to modify the amount as Rs.50,000/- instead of Rs.2,00,000/- stated in condition No.2 of the bail order of the trial Court passed in Cr.M.P.NoO.2923 of 2017 in C.C.No.11 of 2015, dated 18.07.2017.

13. In the result, the Criminal Original Petition is allowed and the Condition No.2 alone in the bail order, directing the petitioner to deposit a sum of Rs.2,00,000/- is modified to the effect that the petitioner is directed to deposit Rs.50,000/- (Rupees Fifty Thousand Only) alone before the trial Court. The remaining condition imposed by the trial Court in the bail orders stands unaltered.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Judge,
Special Court of TNPID Act Cases,
Madurai,

2.The Deputy Superintendent of Police,
Madurai District



3. The Inspector of Police,
Economic offence wing II,
Madurai.

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

5. The Record Keeper,
Vernacular Section
Madurai Bench of Madras High Court.

+1cc to Mr.N.Ananthapadmanaban, Advocate, SR.70141

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MPK
KK/SKN RSK/SAR1/04.08.2017/5P-7C/