

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2018

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.4530 OF 2018

R.K.Chandrasekar

.. Petitioner/Petitioner
Petitioner/ Accused

/vs/

State rep. by Inspector of Police,
DCB, Thiruvallur.

.. Respondent/Respondent/
Respondent/Complainant

Prayer : Criminal Original Petition filed under Section 439(1) (b) of Criminal Procedure Code to modify the bail condition No.2 imposed in Crl.M.P.No.109 of 2018 in Crime No.1 of 2018 dated 06.02.2018 by setting aside the order dated 07.02.2018 in CMP No.197 of 2018 passed by the learned Judicial Magistrate-I, Ponneri (FAC).

For Petitioner : M/s K.N.Nataraja
For Respondent : Mr. C.Iyyapparaj,
Additional Public Prosecutor
For Intervener : Mr.S.Sugendran

O R D E R

This petition has been filed to modify the bail condition No.2 imposed in Crl.M.P.No.109 of 2018 in Crime No.1 of 2018 for the offences under Section 409,420, 506(i) read with Section 34 IPC, dated 06.02.2018 by setting aside the order passed in CMP No.197 of 2018 dated 07.02.18 by the learned Judicial Magistrate-I, Ponneri (FAC).

2. Heard both sides.

3. The learned Judicial Magistrate No.1(FAC), Ponneri, while granting bail, imposed a condition that the petitioner shall deposit the original title deeds standing in his name worth Rs.15,00,000/- along with encumbrance certificate before this court and also file an undertaking affidavit not to alienate the said property till disposal of the case after his release, further the said title deeds deposited was ordered to be kept in safe custody of this court.

4. The learned counsel for the petitioner would submit that though bail was granted as early as on 06.02.2018, the petitioner was unable to come out on bail, since he is not owning property worth Rs.15,00,000/-. Thereafter, he has filed a petition in Crl.M.P.No.197 of 2018 seeking modification of the said condition. However, the learned Magistrate had dismissed the petition. He would further submit that the petitioner is owning a property at Periyakavanam Village, Ponneri Group (Old S.No.33/5, 33/6, 33, 33/2, Patta No.2622 New S.No.33/5B, 33/6c, 33/2B to an extent of 0.86 cents) Plot No.22 to an extent of 960 sq.ft. (Sree Mahendra Avenue), worth about Rs.2,00,000/- and this is only a property owned by him.

5. The learned counsel for the petitioner would also submit that the original documents of the said property was missing, in respect of which he had given a complaint before the Inspector of Police, E1, Ponneri Police Station and the Inspector of Police had also given 'missing certificate' for the same. He would further submit that the other original documents pertaining to the said property, issued by the Revenue Authorities namely the Patta, Chitta and also his solvency certificate in respect of the property is also with him.

6. He would further submit that the condition imposed by the learned Judicial Magistrate to deposit original title deeds of lands worth Rs.15,00,000/- standing in his name is onerous, since he does not own any other property other than the property as stated above worth about Rs.2,00,000/- and that because of that condition, he is languishing in jail and unable to come out on bail. Hence, he prayed that instead of depositing the original documents standing in his name worth Rs.15,00,000/- along with encumbrance certificate, he may be permitted to deposit certified copy of the title deed of property mentioned above standing in his name and that the petitioner may also be directed to file an undertaking not to alienate the said property till the disposal of the case, after his release and that therefore, prayed that the condition may be modified.

7. The learned counsel for the intervener would oppose the petition for modification stating that the petitioner's close relatives are owning properties worth about several lakhs of rupees and they can be directed to file the documents as imposed by the learned Magistrate.

8. I have taken into consideration the submissions made by the learned counsel for the petitioner as well as the learned counsel for the intervener. Though the petitioner has been granted bail on 06.02.2018, till date, he is languishing in jail and has not come out on bail. When a person does not own property worth Rs.15,00,000/-, directing the person to deposit

original title deeds of property standing in his name worth Rs.15,00,000/- is onerous. Hence, I am inclined to modify the condition No.2, imposed in Crl.M.P.No.109 of 2018 dated 06.02.2018 by setting aside condition No.2 in the order passed in Crl.M.P.No.197 of 2018 dated 07.02.2018 by the learned Judicial Magistrate No.1, Ponneri(FAC).

9. Accordingly, the condition imposed in Crl.M.P.No.109 of 2018 dated 06.02.2018 is modified as follows:-

2 (i) The petitioner shall deposit the certified copy of the sale deed in document No.3329 of 2014 in the file of the SRO, Ponneri dated 09.04.2014 relating to the property situated at Periyakavanam Village, Ponneri Group (Old S.No.33/5, 33/6, 33, 33/2, Patta No.2622 New S.No.33/5B, 33/6c, 33/2B to an extent of 0.86 cents) Plot No.22 to an extent of 960 sq.ft. (Sree Mahendra Avenue)

(ii) The petitioner shall also deposit the original patta and Chitta of the said property and also the Solvency Certificate pertaining to the property.

(iii) The petitioner shall also file an undertaking affidavit not to alienate the said property till the disposal of the case within a week, after his release. The said documents deposited is ordered to be kept in safe custody of the learned J.M.No.1, Ponneri (FAC) court."

10. In other respect, the conditions imposed in Crl.M.P.No.109 of 2018 dated 06.02.2018 by the learned Judicial Magistrate No.1, Ponneri (FAC), shall remain unaltered.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Judicial Magistrate No.1, Ponneri.
- 2.Through The Chief Judicial Magistrate, Tiruvallur.
3. The Additional Public Prosecutor, Chennai.

4. The Inspector of Police,
DCB, Thiruvallur.

+2cc to Mr.K.N.Nataraj, Advocate, S.R.No.16238

CRL.O.P.NO.4530 of 2018

RRK(02/03/2018)



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