

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2018
CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.1251 of 2018

Chitra

..Petitioner/Accused 2

Vs.

State rep. by

The Inspector of Police,
District Crime Branch, Salem,
Salem District.
(Crime No.22/2017)

..Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439(1) (b) Cr.P.C. to set aside the 1st condition that the petitioner shall deposit Rs.5,00,000/- in Judicial Magistrate No.II, Sankagiri and 3rd condition that the petitioner shall appear before the respondent police daily at 10.a.m until further orders in CMP. No. 5216 of 2017, dated 12.12.2017.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mrs. Kritika Kamal.P
Government Advocate (Crl.Side)

O R D E R

The petitioner, who had been arrayed as 2nd accused in Crime No.22 of 2017 was granted bail by the learned Judicial Magistrate No.II, Sankagiri on 12.12.2017 on pre-condition to deposit a sum of Rs.5,00,000/-. Seeking to modify the same, the present petition has been filed.

2.Heard Mr.B.Vasudevan, learned counsel appearing for the petitioner and Mrs.Kritika Kamal.P., learned Government Advocate (Crl.Side) appearing for the respondent.

3.This Court had an occasion to deal with the validity of onerous conditions being passed while granting orders of bail or anticipatory bail or release of vehicles in Thiruvasagam Vs. State rep. by the Inspector of Police, B1, North Beach Police Station, Chennai-600 001 in Crl.O.P.No.20483 of 2017 dated 05.10.2017. By relying on various judgments of the Hon'ble Supreme Court as well as this Court, it was held therein that

the Courts are not empowered to impose onerous conditions. Following the rationale laid down in the various orders of the Hon'ble Supreme Court, the onerous condition came to be modified in the said order.

4.I am of the view that the present condition imposed by the trial Court is a similar onerous condition and in view of the stand taken in the aforesaid order, the present petition seeking for modification also requires consideration.

5. In the result, the Criminal Original Petition stands allowed. Consequently, the first condition imposed on the petitioner in Crl.M.P.No.5216 of 2017 by its order dated 12.12.2017 directing the petitioner to deposit a sum of Rs.5,00,000/- shall stand modified as follows:

"The petitioner shall execute a bond of undertaking to the tune of Rs.5,00,000/- instead of depositing a sum of Rs.5,00,000/-.

All other conditions imposed in the order dated 12.12.2017 in Crl.M.P.No.5216 of 2017 shall remain intact.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ak/dh

To

1.The Judicial Magistrate No.II, Sankagiri.

2.Do - Through The Chief Judicial Magistrate, Salem.

3.The Inspector of Police,
District Crime Branch, Salem,
Salem District.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Vasudevan, Advocate, S.R.No.2910

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SV(CO)
RRK(19/01/2018)