

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2018
CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.17062 of 2018

Muniappan

...Petitioner

vs.

State rep. by
The Inspector of Police
Mettupalayam Police Station,
Coimbatore District.

...Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to set aside the order passed by the Principal District & Sessions Judge, Coimbatore in Crl.MP.No.1089 of 2018 in C.A.No.136 of 2018 dated 28.04.2018 in respect of the petitioner executing a bond to the Chief Judicial Magistrate, Coimbatore, within two weeks from the date of order and on bail.

For petitioner : Mr.B. Kumarasamy
For Respondent : Mr.C.Raghavan
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 28.04.2018 passed by the Principal District & Sessions Judge, Coimbatore in Crl.MP.No.1089 of 2018 in C.A.No.136 of 2018.

2. The petitioner was convicted in SC.No.77 of 2014 for the offences under Section 392 r/w 397 and Section 34 of IPC on 14.03.2018 and sentenced to undergo Rigorous Imprisonment for a period of 7 years and pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for a period of 1 year.

3. It appears that the petitioner had paid the fine amount before the trial Court. Thereafter, the petitioner filed an appeal in CA.No.136 of 2018 before the trial Court and filed CMP.No.1089 of 2018 under Section 389 Cr.P.C for suspension of sentence and bail, in which, the Principal District and Sessions Judge, Coimbatore, by order dated 28.04.2018, has granted suspension of sentence and bail on condition that the petitioner shall execute a bond for Rs.10,000/- with two sureties for a like sum to the satisfaction of the Chief Judicial Magistrate, Coimbatore, within two weeks from the date of receipt of a copy of that order. Challenging the said condition, the petitioner

is before this Court.

4. Heard Mr.B.Kumarasamy, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl. Side) for the respondent-State.

5. The learned counsel for the petitioner contended that only in a case where an accused is released on anticipatory bail, the condition to furnish sureties within a time period will be fixed by the Court. In this case, the petitioner is in judicial custody and therefore, the Sessions Court ought not to have fixed any time period to comply the conditions.

6. There is much force in the submission of the learned counsel for the petitioner.

7. Hence, this petition is allowed and the time period of two weeks fixed by the Sessions Court in the order dated 28.04.2018 in CMP.No.1089 of 2018 in CA.No.136 of 2018, is hereby set aside. This Court further imposes a condition that out of two sureties, one should be a blood relative of the petitioner. Rest of the conditions imposed by the Principal District and Sessions Judge, Coimbatore, shall remain the same.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

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To

1.The Principal District & Sessions Judge,
Coimbatore.

2.The Chief Judicial Magistrate
Coimbatore.

3.The Inspector of Police
Mettupalayam Police Station,
Coimbatore District.

4.The Public Prosecutor
High Court, Madras.

+1 CC to Mr.S. Gunalan, Advocate sr 43123.

Crl.O.P. No.17062 of 2018

SP(06/07/2018)