

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2018

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No. 4785 of 2018

N.Siva Kumar

..Petitioner

Vs.

State rep. by

The Inspector of Police,

Magundanchavadi Police Station,

Salem District.

(Crime No.409 of 2017)

..Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records to the order dated 05.02.2018 made in CMP.No. 366 of 2018 in Crime No. 409 of 2017 on the file of the Learned Principal Sessions Judge, Salem and modify the same enabling the petitioners enlarging on bail by allowing this Criminal Original Petition.

For Petitioner : Mr.M.Mohamed Saifulla

For Mr.J.Stalin

For Respondent : Mr.C.Raghavan

Government Advocate (Crl.Side)

O R D E R

The petitioner, who has been arrayed as accused in Crime No.409 of 2017, was granted bail by the learned Judicial Magistrate No.II, Sankagiri in CMP. No. 4170 of 2017 dated 20.11.2017 on pre-conditions that the petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties, out of whom one must be a blood relative and shall report before the respondent police daily at 10.00 AM and 5.00 PM until further orders.

2. The petitioner has filed a petition in Crl.MP. No. 126 of 2018 before the learned Principal Sessions Judge, Salem to modify the said conditions and the same came to be modified to the effect that the petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties, out of whom one surety shall be the petitioner's wife, instead of one blood surety. Subsequently, the petitioner has again filed a petition in CMP. No. 366 of 2018 seeking for modification, which came to be dismissed by the learned Principal Sessions Judge, Salem on 05.02.2018. Aggrieved over the same, the present petition is filed.

3. Heard Mr.M.Mohamed Saifulla, learned counsel appearing for the petitioner and Mr. C.Raghavan, learned Government Advocate (Crl.Side) appearing for the respondent.

4.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.

5. 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.

6. In the result, the Criminal Original Petition stands allowed. The conditions imposed on the petitioner in CMP. No. 4170 of 2017 by its order dated 20.11.2017 shall stand modified as follows:

" The petitioner shall execute a bond for a sum of Rs.10,000/- with any two sureties.

The petitioner shall report before the respondent police daily at 5.00 P.M for a period of 30 days and thereafter as and when required"

All the other conditions imposed in the order dated 20.11.2017 in Crl.M.P.No.4170 of 2017 shall remain intact.

Sd/-

Assistant Registrar(CS II)

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Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Salem.

2. The Judicial Magistrate No.II,
Sankagiri

3.The Inspector of Police,
Magundanchavadi Police Station,
Salem District.

4.The Public Prosecutor,
High Court, Madras.

5.The Superintendent, Central Prison, Salem.

+1cc to Mr.J.Stalin, Advocate SR.No.12319

sm:20.2.2018

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