

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P No.23474 of 2018

G.Ashok

... Petitioner

Vs.

The Inspector of Police,
CCB-I, Chennai,
(Crime No.314/2018)

.... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439(1)(b) of the Code of Criminal Procedure, to modify the conditions in Crl.M.P.No.4906 of 2018 in Crime No.314 of 2018, pending on the file of CCB-CBCID, Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner : Dr.G.Krishnamurthy
For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to modify the conditions in Crl.M.P.No.4906 of 2018 in Crime No.314 of 2018, pending on the file of CCB-CBCID, Metropolitan Magistrate Court, Egmore, Chennai.

2.The case of the prosecution is that the defacto-complainant working as a Manager of India Heart Foundation. The said foundation running B.Sc., [Physician Assistant Course for 4 years] and Diploma in Nursing Course [2 years] under the recognition of Dr.MGR Medical University, in which, the petitioner was appointed as an Accountant and he collected the application fee of Rs.400/-, 500/- and 300/- for different courses from the year 2013 onwards. However, the petitioner misappropriated the funds of Rs.88,59,057/- from the year 2010 to 2018, for which, the defacto-complainant lodged a complaint before the respondent police.

3.Since the petitioner is in Judicial custody for the period of 62 days, the petitioner was enlarged on statutory bail under Section 167(2) of Cr.P.C., by the CCB-CBCID Metropolitan

Magistrate Court, Egmore, Chennai. On 24.09.2018, the lower Court, while enlarging statutory bail against the petitioner, had imposed the following conditions:

"(i) the accused shall deposit a sum of Rs.50 lakhs to the credit of Cr.No.314 of 2018.

(ii) after compliance of the 1st condition cited above, the petitioner shall furnish two sureties for like sum of Rs.1 lakh to the satisfaction of this Court and one among the surety shall be a blood relative of the accused.

(iii) The accused shall appear before the respondent police daily at 10.30 a.m. and 6.00 p.m. until further orders."

4.The learned counsel appearing for the petitioner would submit that since the petitioner has entitled for statutory bail, for which the lower Court imposed onerous condition to deposit a sum of Rs.50 lakhs to the credit of Crime No.314 of 2018, which is unsustainable one and he has also relied upon the Decision of the Hon'ble Supreme Court in Sumit Mehta vs. State (NCT of Delhi) reported in 2013) 15 SCC 570, wherein it is held that onerous condition should not be imposed on the accused.

5.In view of the above, this Court modifies the aforesaid condition to the effect that petitioner is directed to deposit a sum of Rs.5 lakhs [instead of Rs.50 lakhs imposed by the lower Court] and further, the petitioner shall furnish two sureties for like sum of Rs.10,000/- [instead of Rs.1 lakh imposed by the lower Court] to the satisfaction of the Court and one among the surety shall be a blood relative of the accused and the other condition to the effect that the accused shall appear before the respondent police daily at 10.30 a.m. and 6.00 p.m. Until further orders, shall remains unaltered.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

To

1.The Inspector of Police,
CCB-I, Chennai.

2.The Public Prosecutor,
Madras High Court,
Chennai.

3.The Metropolitan Magistrate Court,
CCB-CBCID, Egmore, Chennai

+lcc to Mr.G.Krishnamoorthy, Advocate, S.R.No.69894

CRL.OP No. 23474 of 2018

JP (CO)
GSP(10/10/2018)



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