

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.26138 of 2018
and
Crl.M.P.No.15189 of 2018

Umadevi

...Petitioner

Vs

State rep. by,
Inspector of Police,
EOW-II, Coimbatore,
(Crime No.3 of 2018).

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the conditions that (i) the petitioner shall deposit an amount of Rs.20,00,000/- as cash security before the Competent Authority/District Revenue Officer, Coimbatore, (ii) out of Rs.20,00,000/- the petitioner/A-10 shall deposit Rs.10,00,000/- while enlarging her on bail and remaining Rs.10,00,000/- has to be paid within two weeks from the date of her release and (iii) the petitioner/A-10 shall be enlarged on bail by executing bond for Rs.20,00,000/- with two sureties for a like sum, out of which one surety must be close relative, imposed in the order dated 08.11.2018 in C.M.P.No.2973 of 2018 by the Hon'ble Special Judge, Special Court for TNPID Act, Coimbatore.

For Petitioner : Mr.N.Ponraj
For Respondent : Mr.C.Ragavan
Government Advocate
[Crl. Side]
For Intervenor : Mr.H.Rajasekar

O R D E R

This petition has been filed seeking for a modification of the order dated 08.11.2018 passed by the Court below in C.M.P.No.2973 of 2018, wherein the Court below imposed a deposit of an amount of Rs.20,00,000/- (Rupees twenty lakhs Only) as cash security, as one of the conditions for granting bail to the petitioner.

2.The learned counsel for the petitioner would submit that this petitioner has been added as A10 in the pending F.I.R in Crime No.3 of 2018, which has been registered by the Respondent police for the offence under Sections 120(b), 406, 420 of the Indian Penal Code read with Section 5 of the TNPID Act. The learned counsel for the petitioner would submit that the petitioner's husband viz., Jagadeeswaran was added as A7 in this case. He was conducting a business, wherein he used to collect money from the general public. The money that was collected was not repaid back to the depositors and therefore, an F.I.R came to be registered by the respondent Police. The learned counsel would submit that the petitioner is not involved in the day to day affairs of the firm and the Court below ought not to have imposed the condition of cash deposit. The learned counsel for the petitioner would further submit that when her husband/A7, was granted bail, no such onerous condition was imposed by the Court below. The learned counsel also relied upon a Judgment of this Court reported in 2017 (3) CTC 291 in the case of Sagayam @ Devasagayam Vs. State rep. by the Inspector of Police, G-7 Chetpet Police Station, Chennai.

3.The learned Government Advocate, appearing for the respondent would submit that a total amount of Rs.2,72,00,000/- (Rupees Two Crores Seventy Two Lakhs only) was collected in this case from the general public and there were totally 65 Victims in this case. The learned Government Advocate further submitted that no amount has been recovered by the respondent Police till now and the respondent Police is in the process of identifying the movable and unmovable properties purchased by the accused persons, out of the deposits received from the general public. Therefore, the learned counsel would submit that the condition imposed by the Court below is reasonable and the same should not be interfered by this Court in exercise of its jurisdiction under Section 482 of the Code of Criminal Procedure.

4.The learned Counsel appearing for one of the victim would submit that the Court below was lenient in allowing the bail petition filed by the petitioner for bail by imposing a very minimal condition. The learned counsel would submit that the total amount owed by the petitioner and her husband amounting to a sum of Rs.2.84 Crores and not a single pie has been paid to any of the depositors in this case. The learned

counsel would further submit that having received money from the general public, the petitioner is duty bound to deposit/repay back the amount and no leniency should be shown in cases of this nature. The learned counsel would further submit that the judgement cited by the learned counsel for the petitioner will not have any bearing to the facts of this case.

5.This Court has carefully considered the submissions made on either side.

6.It is seen from the records that there are totally ten accused persons in this case. The petitioner is arrayed as A10. As per the statement made by the learned Government Advocate, there are more than 65 Victims in this case, who have deposited the money to the tune of nearly Rs.2.76 Crores. It is true that under normal circumstances, this Court does not encourage the imposition of cash security as a condition for the grant of bail. That is the purport of the judgment cited by the learned counsel for the petitioner, which has been referred supra. In order to assess, whether the condition imposed by the Court below is onerous or not, the facts and circumstances of the case will have to be necessarily considered. There cannot be a universal rule in all the cases. The judgement, that has been cited by the learned counsel for the petitioner cannot be taken umbrage in a case, where the offence involves receiving money from general public in the name of deposit and not repaying the same. These are serious offences which directly impacts the general public. Therefore, in cases of this nature, the Courts will have to necessarily insist for stringent conditions such as directing cash deposits and also deposit of title deeds.

7.The Non-imposition of conditions on A7, who was released on bail and who is the husband of the petitioner, does not in any way stop the Court from imposing a condition against this petitioner. In the considered opinion of this Court, such condition ought to have been imposed even against A7. It is now brought to the notice of this Court that the bail granted to A7 has already been cancelled. Thereafter, the learned counsel for the petitioner cannot take the case of A7 as a precedent for the case of the petitioner.

8.This Court does not find any illegality or infirmity in the order passed by the Court below. After all, it is the Court below which has to satisfy itself with regard to the conditions that needs to be imposed at the time of granting bail. This Court cannot interfere with the conditions imposed by the Court below unless it is found that it is illegal or unduly onerous. This Court does not find any ground to interfere with the order passed by the Court below.

9.In the result, this Criminal Original Petition stands dismissed and consequently, the connected Miscellaneous Petition is closed.

vv2/rm

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

1. The Special Judge, Special Court
for TNPID Act,
Coimbatore.
2. The Inspector of Police,
EOW-II, Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.H.Rajasekar, Advocate SR.NO.79713

CrI.O.P.No.26138 of 2018
and
CrI.M.P.No.15189 of 2018

DR (CS)
KAK (29/11/2018)

सत्यमेव जयते

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