

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.27112 of 2018

Duraisamy (M/42)
S/o.Pidaran

... Petitioner

Vs.

State rep. by
Inspector of Police,
Valavanthinadu Police Station,
Namakkal District.
Crime No.165/2018.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C, to modify the conditions that "the petitioner shall make a non-refundable deposit of Rs.40,000/-(Rupees Forty Thousand Only) by way of demand draft to the credit of Principal District Judge, Namakkal District, without prejudice to him defence before the trial court and the receipt/challan shall be produced before the learned Magistrate and thereafter, the learned Judicial Magistrate shall accept the sureties furnished by the petitioner" imposed by the learned Principal Sessions Judge, Namakkal in the order dated 15.11.2018 passed in CMP.1487 of 2018.

For Petitioner : Mr.R.Nalliyappan
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking for a modification of the condition imposed by this Court below, wherein the Court below granted bail to the petitioner on condition that the petitioner should make a non-refundable deposit of Rs.40,000/-(Rupees Forty thousand only).

2.The learned counsel for the petitioner would submit that based on the complaint given before the respondent Police, the respondent Police registered a F.I.R., in Crime No.165 of 2018, against the petitioner for an offence under sections 447, 294(b) and 506(ii) of IPC r/w section 3(1) of TNPPDL Act. According to

the complainant, the petitioner had unlawfully entered into his land and had damaged 50 capsicum pepper vines and has caused loss to the tune of Rs.40,000/-. The petitioner was arrested by the respondent police and he filed a petition for bail before the Court below.

3.The Court below while considering the bail petition was inclined to grant bail to the petitioner subject to certain conditions. One such condition imposed by the Court below was a direction to the petitioner to make a non-refundable deposit of Rs.40,000/-.

4.The learned counsel for the petitioner submitted that the court below has not given any reason for imposing such a onerous condition and the Court below has merely quoted two Criminal Original Petition numbers, wherein, this Court has imposed a similar condition in those cases. The learned counsel would submit that such a cash security should not be insisted as a condition for granting of bail and the same is opposed to the 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.

5.This Court has gone through the order passed by the Court below. Whenever, the Court follows any order passed by this Court, the Court has to give reasons as to why the order is followed and how this case is similar to the cases that are covered by the orders passed by this Court. There is absolutely no discussion on that aspect. Imposing conditions in a bail petition will always depend upon the facts of a given case. There cannot be an uniform condition in all cases. That apart, this Court has time and again held that such cash security should not be insisted as a condition while granting bail. The judgment laid upon by the learned counsel for the petitioner will squarely apply to the facts of the present case. The Court below has imposed such a onerous condition which the petitioner is not able to fulfill and therefore the petitioner is not able to come out on bail in spite of an order passed in his favour. Therefore, this Court has to necessarily interfere with the orders passed by the Court below. In the result, the condition imposed by the Court below directing the petitioner to make a non-refundable deposit of Rs.40,000/- is hereby set aside. The other conditions imposed by the Court below shall stand as it is.

6.The Criminal Original Petition is allowed to the extent indicated above.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rri/rm

To

1.The Principal Sessions Judge,
Namakkal.

2.The Principal District Judge,
Namakkal.

3.The Judicial Magistrate No.II,
Namakkal.

4. The Inspector of Police,
Valavanthinadu Police Station,
Namakkal District.
Crime No.165/2018.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.79513

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GSP (22/11/2018)



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