

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.12.2018

CORAM:
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Crl.O.P.No.30108 of 2018

Suresh @ Suresh Kumar

...Petitioner

..Vs..

The State, rep, by its,
The Inspector of Police,
Central Crime Branch, Team XII,
Bank Fraud Investigation Wing,
Vepery, Chennai-600 007.
[Crime No:267/2018]

...Respondent

PRAYER: Criminal Original Petition filed under Section 439[1] [b] of Criminal Procedure Code, to modify the condition that the petitioner shall execute a bond for sum of Rs.10,000/- along with two genuine sureties. One must be relative instead of "[i] The accused shall deposit a sum of Rs.5 Lakhs to the credit of Cr.No.:267/2018. [ii] After compliance of the 1st condition cited above, the petitioner shall furnish two sureties for like sum of Rs.1,00,000/- to the satisfaction of this Court and one among the surety shall be a blood relative of the accused." in the order of Crl.M.P.No.6771 of 2018 dated 28.11.2018 by the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.M.Ravikumar

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

ORDER

This Criminal Original Petition has been filed seeking to modify the condition imposed against the petitioner by the Court below while granting statutory bail to the petitioner.

2.The petitioner was arrested and remanded to Judicial custody in Cr.No.267 of 2018 for the offences under Sections 380, 465, 468 r/w 420 of IPC. The petitioner was remanded to judicial custody on 27.06.2018. He was inside the jail for more than 165 days. However, no final report has been filed by the respondent police. Therefore, the petitioner was granted statutory bail.

3.The Court below while granting the statutory bail had imposed the condition that the petitioner should deposit a sum of Rs.5,00,000/- to the credit of Crime No.267 of 2018 and the

petitioner must also furnish two sureties for a like sum of Rs.1,00,000/-. Aggrieved by these two conditions, the present petition has been filed before this Court.

4.The learned counsel for the petitioner would submit that the Court below had granted Statutory bail to the petitioner and therefore, the Court below ought not to have imposed the said onerous condition against the petitioner. The learned counsel would further submit that the conditions that have been imposed by the Court below are incapable of being complied with by the petitioner and therefore, in spite of the grant of the statutory bail, the petitioner is not in a position to come out of the jail.

5.This Court has carefully considered the submissions made on either side. The statutory bail granted to the petitioner is a matter of right provided under Section 167 (2) of Cr.P.C. Therefore, while granting a statutory bail, Court should not impose onerous conditions and defeat the very right given to the accused person under the code. In the considered view of this Court, the conditions imposed by the Court below are onerous and incapable of being complied with by the petitioner. Therefore, the same requires interference by this Court.

6.In the result, the first and second condition imposed by the Court below is hereby set aside and the petitioner is directed to execute a bond for a sum of Rs.10,000/- with two sureties for a like sum. The other condition imposed by the Court below shall stand as it is. This Criminal Original Petition is ordered accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To.

1.The CCB & CBCID Metropolitan Magistrate,
Egmore, Chennai.

2.The Inspector of Police,
The State rep, by its,
Central Crime Branch, Team XII,
Bank Fraud Investigation Wing,
Veperiy, Chennai-600 007.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Ravikumar, Advocate, S.R.No.89259

Cr1.O.P.No.30108 of 2018

PPA(CO)

rrs 24/01/2019