IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.30154 of 2018

Suresh @ Suresh Kumar ... Petitioner/Accused

Vs.

State represented by
The Sub Inspector of Police,
Central Crime Branch Team – XII,
Bank Fraud Investigation Wing,
Vepery, Chennai - 600 007
[Crime No.300 of 2018] ... Respondent /Complainant

Criminal Original Petition filed under Section 439(1)(b) Cr.P.C. praying to modify the condition imposed by the learned Metropolitan Magistrate for CCB & CBCID cases, Egmore, Chennai in Crl.M.P.No.6772 of 2018 dated 28.11.2018 in so far as the condition No.1 that the accused shall deposit a sum of Rs.5,00,000/- to the credit of Crime No.300 of 2018 is concerned.

For Petitioner :Mr.M.Ravikumar

For Respondent :Mrs.M.Prabhavathi
Additional Public Prosecutor

O R D E R

This petition has been filed for modification of the conditions imposed by the learned Metropolitan Magistrate for CCB & CBCID cases, Egmore, Chennai in Crl.M.P.No.6772 of 2018 dated 28.11.2018.

2. The learned counsel for the petitioner would submit that the petitioner was arrested and remanded to judicial custody on 19.07.2018 and charge sheet has not been filed, statutory bail was granted to the petitioner under Section 167(2) Cr.P.C by the trial Court. Unfortunately, the learned trial Judge had imposed the following conditions:

"(i)The accused shall deposit a sum of Rs.5 lakhs to the credit of Cr.No.300/2018.

(ii)After compliance of the 1st condition

https://hcservices.ecourts.gov.in/hcservices/

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.

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

Therefore, he sought for modification of the condition imposed by the Court of the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai.

3. The learned Additional Public Prosecutor would submit that the petitioner involved in huge and grave crime. Therefore, she sought for dismissal of this petition seeking modification.

4. It is seen from the records that the petitioner was arrested and remanded to judicial custody on 19.07.2018 and charge sheet has not been filed in this case so far. Therefore, he is entitled for the statutory bail under Section 167(2) Cr.P.C. Therefore, the Court of the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai granted bail and released the petitioner on condition that the petitioner shall deposit Rs.5,00,000/- to the credit of Cr.No.300 of 2018. Section 167(2) Cr.P.C reads as follows:-

"167(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction: Provided that-

(a) [1] the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days; if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total

https://hcservices.ecourts.gov.in/hcservices/

period exceeding,-
(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;
(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub- section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;]
(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;
(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police. [1] Explanation I.- For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail;]. [2] Explanation II.- If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising detention.]"

5. It is the right of the accused for statutory bail for non filing of the charge sheet by the respondent police. Therefore, the said right cannot be extinguished by imposing conditions.

6. In view of the above discussions, this Court is inclined to modify the condition No.3(i) imposed by the Court of the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai. Accordingly, the condition 3(i) of the order dated 28.11.2018 in Crl.M.P.No.6772 of 2018 on the file of the Court of the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai stands deleted.

https://hcservices.ecourts.gov.in/hcservices/

7. This Criminal Original Petition is ordered accordingly.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jer

To

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

2. The Inspector of Police,
Central Crime Branch – XII,
Bank Fraud Investigation Wing,
Vepery, Chennai - 600 007

3.The Public Prosecutor,
High Court of Madras, Chennai.

+1cc to Mr.M.Ravikumar, Advocate sr.89406

CRL.O.P.No.30154 of 2018

vgi[co]
srg 29/01/2019

https://hcservices.ecourts.gov.in/hcservices/