



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P. (MD) No.21471 of 2018

M.Rajesh

... Petitioner

Vs

The State through
The Inspector of Police,
Gudalur South Police Station,
Theni District
(Crime No.218 of 2018)

... Respondent

PRAYER: Petition filed under Section 439(1)(b) of Criminal Procedure Code to modify the condition passed in order in Cr.M.P.No.1257 of 2018 on the file of the learned Sessions Judge (Fast Track Mahila Court) Theni dated 27.11.2018 as if permit the petitioner to produce common sureties or the sureties apart from blood relatives instead of producing "with two sureties for the like sum each, one surety is blood relative (Mother, Father, Brother, Sister).

For Petitioner

: Mr.I.Pinaygash

For Respondent

: Mr.K.Suyambulinga Bharathi

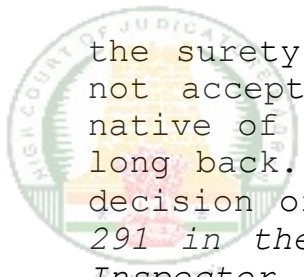
Government Advocate (CrI.side)

ORDER

This Criminal Original Petition has been filed to modify the condition imposed by the learned Sessions Judge (Fast Track Mahila Court) Theni in Cr.M.P.No.1257 of 2018 dated 27.11.2018.

2.The learned counsel for the petitioner submitted that the petitioner was arrested and remanded to judicial custody on 24.10.2012 for the offences under Sections Girl Missing @ 366 of IPC and Section 6 of POCSO Act, 2012 in Crime No.218 of 2018. The petitioner had filed a case in Cr.M.P.No.1257 of 2017 seeking bail before the Sessions Judge (Fast Track Mahila Court) Theni and the said application was allowed and bail was granted to the petitioner on 27.11.2018 with conditions to execute a bond for Rs.25,000/- with two sureties for the like sum each, one surety is blood relative (Mother, Father, Brother or Sister) and another is directed to produce the original property document or original patta to the satisfaction of this Court and directed the petitioner to report before the respondent police station daily at 10.30 a.m., until further orders.

3.Even after obtaining the order of bail, the petitioner is not able to execute sureties, since, as per the order, one surety should be a blood relative. The petitioner's father had deserted the family of the petitioner long back and he had married again and settled elsewhere. The petitioner's mother and sister are residing at Kerala and do not have any property. The petitioner has produced



the surety of his maternal uncle Karupppiah, S/o. Suruli, which was not accepted. It is further submitted that the petitioner is a native of Tamil Nadu. They went to Kerala State and settled there long back. The learned counsel for the petitioner relied upon the decision of the Hon'ble Madras High Court reported in 2017 (3) CTC 291 in the case of *Sagayam @ Devasagayam Vs. State*, rep. by the *Inspector of Police* and 2018-1-LW-102 in the case of *Thiruvvasagam vs. State* rep. by the *Inspector of Police*. The Hon'ble Madras High Court held as follows :

"15. Under the guise of imposition of bail condition, there shall not be imposition of any onerous condition. Conditions which are in the nature of and which could not be complied with by the accused would be like granting bail by one hand and taking it away by another hand."

4. Respectfully following the aforesaid decision of this Court, this Court modifies the condition imposed by the lower Court to the extent that the petitioner to produce two sureties and he need not produce sureties of blood relative. Likewise, production of original property document or original patta need not be insisted.

5. With this modification, this Criminal Original Petition is allowed.

Sd/

Assistant Registrar (CS-V)

/True copy/

Sub Assistant Registrar (CS-IV)

To

The Inspector of Police,
Gudalur South Police Station, Theni District
Copy to:

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. I. Pinaygash, Advocate, SR.No.22713

Cr1.O.P. (MD) No.21471 of 2018

PNN

KK/SKN/SAR-4/06.12.2018/2P-4C