



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.05.2018

CORAM:

THE HONOURABLE MR. JUSTICE **M.S.RAMESH**

Cr1.O.P(MD)No.7701 of 2018

D.Selwyn Ebenezer

.. Petitioner/accused

Vs.

The State represented by,
The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439(1)(b) Cr.P.C. praying to set aside the order passed by the learned Principal District and Sessions Judge, Tirunelveli in Cr.M.P.No.2179 of 2018 dated 26.04.2018 in so far as the imposition of condition by directing the petitioner to pay a sum of Rs.1 Lakh is concerned.

For Petitioner : Mr.P.Saravanan

For Respondent : Mr.A.P.G.Ohm chairma Prabhu,
Government Advocate (Criminal Side).

ORDER

The petitioner, who had been arrayed as an accused in Crime No.105 of 2018 was granted anticipatory bail on pre-condition to deposit a sum of Rs.1,00,000/- by the learned Principal District and Sessions Judge, Tirunelveli on 26.04.2018. Seeking to modify the same, the present petition had been filed.

2.Heard Mr.P.Saravanan, learned counsel appearing for the petitioner and Mr.A.P.G.Ohm Chairma Prabhu, learned Government Advocate (Criminal Side) appearing for the respondent.

3.This Court had an occasion to deal with the validity of onerous conditions being passed while granting orders of bail or anticipatory bail or release of vehicles in Thiruvassagam Vs. State rep. by the Inspector of Police, B1, North Beach Police Station, Chennai-600 001 in Cr1.O.P.No.20483 of 2017 dated 05.10.2017. By relying on various judgments of the Hon'ble Supreme Court as well as this Court, it was held therein that the Courts are not empowered to impose onerous conditions. Following the rationale laid down in the various orders of the Hon'ble Supreme Court, the onerous condition came to be modified in the said order.



4.I am of the view that the present condition imposed by the trial Court is a similar onerous condition and in view of the stand taken in the aforesaid order, the present petition seeking for modification also requires consideration.

5.In the result, the Criminal Original Petition stands allowed. Consequently, the condition imposed on the petitioner in CrI.M.P.No.2179 of 2018 by its order dated 26.04.2018 directing the petitioner to deposit a sum of Rs.1,00,000/- shall stand modified as follows:

"the petitioner shall execute a bond of undertaking to the tune of Rs.1,00,000/- instead of depositing a sum of Rs.1,00,000/-.

Further, time is extended for the petitioner to surrender before the learned Judge within a further period of fifteen days from the date of receipt of a copy of this order. All other conditions imposed in the order dated 26.04.2018 in CrI.M.P.No.2179 of 2018 shall remain intact.

Sd/-
Vacation Officer

/True copy/

Sub Assistant Registrar

To

- 1.The Principal District & Sessions Judge,
Tirunelveli.
- 2.The Judicial Magistrate No.I
Tirunelveli.
- 3.The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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PS/PNN

RAM/SV MMS/SAR 3/18.05.2018/2P/5C