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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order Reserved on : 27.6.2018

Order Pronounced on : 24.08.2018

CORAM

THE HONOURABLE MR. **JUSTICE D.KRISHNAKUMAR**

Crl.O.P. (MD) No.8233 of 2018

1 Alphones
2 Vetrivel ... Petitioners

Vs.

The Inspector of Police,
SHO Kanyakumari Police Station,
Kanyakumari District. ... Respondent

Prayer: Petition is filed under Section 482 Cr.P.C, seeking direction to the Judicial Magistrate I, Nagercoil to accept two sureties in common for the bail orders in Crl.M.P.No.3625 of 2017 and 379 of 2018 on the file of the Judicial Magistrate I, Nagercoil instead of two sureties in each cases.

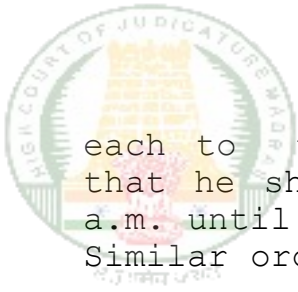
For petitioners : Mr.S.Chellapandian
For respondent : Mr.K.K.Ramakrishnan
Govt. Advocate (Crl.side)

O R D E R

A case has been registered against the petitioners in Cr.No.32 of 2017 for the offences under Section 457 and 380 I.P.C. Petitioners were arrested on 24.1.2017 for the said offences. Petitioners have filed applications in Crl.M.P.No. 3625 of 2017 and 379 of 2018 before the learned Judicial Magistrate I, Nagercoil for grant of bail in the aforesaid case.

2 Learned Judicial Magistrate I, Nagercoil by order, dated 12.12.2017 while granting bail to the petitioner, has imposed the following conditions:

"Petitioner shall be enlarged on bail on his executing a bond for a sum of Rs.10,000/- along with two sureties and either surety shall be a father or mother of petitioner to the likesum



each to the satisfaction of the court and on further condition that he shall appear before the respondent police daily at 10.00 a.m. until further orders.''

Similar order was passed on 08.02.2018 in CrI.M.P. No. 379 of 2018.

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3 Challenging the orders passed by the learned Judicial Magistrate I, Nagercoil, dated 12.12.2017 and 8.2.2018, the petitioners are before this Court to quash the same in so far as the condition that the petitioners have to produce two individual sureties apart from execution of personal bond. The learned counsel for the petitioners/accused relied on the decision of this Court in **Balu @ Palavesam vs. State (CrI.O.P. (MD) No.23635 of 2014, dated 5.1.2015)** wherein this Court held as follows:

"3. Considering the facts and circumstances of the case, this Court is of the view that the two sureties required in each of the case may be common in all cases.

4. Accordingly, this Court directs the learned Judicial Magistrate Court No.I, Thoothukudi to accept two sureties common for the bail orders in Cr.M.P.No.6127 of 2014, CrI.M.P.No.5919 of 2014, Cr.M.P.No.5918 of 2014, Cr.M.P.No.5915 of 2014, 5914 of 2014, 5916 of 2014, 5917 of 2014 and 6070 of 2014 instead of two sureties in respect of each bail order. This Court would pass further order of modification to the effect that the petitioner shall appear before South police station, Thoothukudi, daily twice at 9.00 a.m. and 6.00 p.m. until further orders.

5. With the above modification, this Criminal original petition is disposed of.''

4. In **Sivamani vs. State (CrI.O.P. (MD) No.10890 and 10892 to 10894 of 2017, dated 21.8.2017)** this Court held as follows:

"8. Accordingly, the Criminal original petitions are allowed and the condition imposed by the Court below in respect of producing separate sureties alone is modified to the effect that the petitioner is directed to produce common sureties of Rs.10,000/- (Rupees ten thousand only) each for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Sattur and the said court is directed to accept the common sureties. The other conditions remain unaltered."



5. In the aforesaid cases, this Court has passed an order modifying the condition imposed, by directing the petitioner to produce common sureties and execute a bond for Rs.10,000/- for likesum to the satisfaction of the learned Judicial Magistrate, Sattur. Therefore, counsel for the petitioners herein seek to modify the condition by directing the petitioners to produce common sureties instead of separate sureties in the aforesaid cases.

6. The learned Govt. Advocate (Crl.side) would submit that the petitioners are involved in various offences and has absconded for several months to evade from the clutches of law and also relied upon the decision of this Court in **S.Velu @ Velautham vs. State (Crl.O.P.(MD) No.11888 of 2017, dated 4.10.2017)** wherein this Court held as under:

"4. The petitioner was charged for the offences under Section 392 and 397 I.P.C. Having regard to the gravity of the offences alleged in the complaint against the petitioner, the condition imposed by the lower court appears to be reasonable and this Court does not find any reason to interfere with this petition. Hence, the Criminal original petition is dismissed."

7. In the case in hand, the petitioners were arrested on 24.1.2017 and remanded in prison for more than one year. Therefore, considering the period of incarceration, gravity of the offence alleged against the petitioners and the decisions of this Court cited supra, this Court is inclined to quash the orders, dated 12.12.2017 and 8.2.2018 of the learned Judicial Magistrate I, Nagercoil in Crl.M.P.No.3625 of 2017 and 379 of 2018 in so far as the condition that the petitioners shall produce two individual sureties in all the cases.

8. Accordingly, the orders passed by the learned Judicial Magistrate I, Nagercoil dated 12.12.2017 and 8.2.2018 in Crl.M.P.No.3625 of 2017 and 379 of 2018 are quashed to the aforesaid extent by modifying the condition that the petitioners are directed to produce two common sureties in the aforesaid cases.

Criminal original petition is allowed on the above terms.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS-I)



To

1. THE JUDICIAL MAGISTRATE I, NAGERCOIL

2. THE INSPECTOR OF POLICE,
SHO KANYAKUMARI POLICE STATION,
KANYAKUMARI DISTRICT.

Crl.O.P.No.8233 of 2018
24.8.2018

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