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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.8234 of 2018

1 Alphones
2 Vetrivel
3 Muthukumar
4 Manikandan @ Mani ... Petitioners/Accused

Vs.

The Inspector of Police,
Kovilpatti West Police Station,
Tirunelveli District. ... Respondent/Complainant

Prayer: Petition is filed under Section 482 Cr.P.C, seeking direction to the Judicial Magistrate II, Kovilpatti to accept two sureties in common for the bail orders in Crl.M.P.No.5428 and 10178 of 2017 on the file of the Judicial Magistrate II, Kovilpatti 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.150 of 2017 for the offences under Section 457 and 380 I.P.C. Petitioners were arrested on 29.6.2017 for the said offences. Petitioners have filed applications in Crl.M.P.No. 5428 and 10178 of 2017 before the learned Judicial Magistrate II, Kovilpatti for grant of bail in the aforesaid case.

2 Learned Judicial Magistrate II, Kovilpatti by order, dated 17.07.2017 and 14.12.2017, while granting bail to the petitioners, has imposed the following conditions:

"Petitioners/Accused shall be enlarged on bail on their executing a bond for a sum of Rs.5,000/- along with two sureties to the likesum each to the satisfaction of the court and on further



condition that petitioners/accused shall appear before the respondent police daily at 9.00 a.m. for one month from the date of release."

3 Challenging the order passed by the learned Judicial Magistrate II, Kovilpatti, dated 17.07.2017 and 14.12.2017 in CrI.M.P.No.5428 and 10178 of 2017 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.

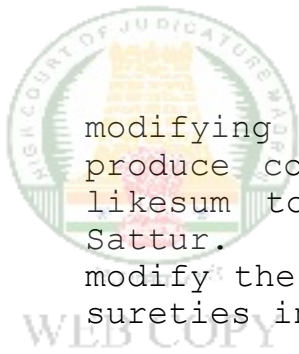
4. Accordingly, this Court directs the learned Judicial Magistrate Court No.I, Thoothukudi to accept two sureties common for the bail orders in Cr.M.P.No.6127 of 2014, CrI.M.P.No.5919 of 2014, Cr.M.P.No.5918 of 2014, Cr.M.P.No.5915 of 2014, 5914 of 2014, 5916 of 2014, 5917 of 2014 and 6070 of 2014 instead 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 and is 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 17.07.2017 and 14.12.2017 in Crl.M.P.No.5428 and 10178 of 2017 passed by the learned Judicial Magistrate II, Kovilpatti 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 II, Kovilpatti dated 17.07.2017 and 14.12.2017 in Crl.M.P.No.5428 and 10178 of 2017 are quashed to the aforesaid extent by modifying the condition that the petitioners are directed to produce two common sureties in the aforesaid case.

Criminal original petition is allowed on the above terms.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar



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To

- 1.The Judicial Magistrate II,
Kovilpatti.
- 2.The Chief Judicial Magistrate,
Tuticorin.
- 3.The Inspector of Police,
Kovilpatti west Police station,
Tuticorin District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras high court,
Madurai.

Cr1.O.P.No.8234 of 2018

NM/PM/SAR 2/20.09.18/4P/5C