



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.(MD)No.21223 of 2018

Carrasco Raymond @ Omon Osakae

.. Petitioner/Petitioner

vs.

State through the
Inspector of Police,
CCB (Cyber Crime),
Madurai.

(In Crime No.18 of 2018)

.. Respondent/Respondent

PRAYER : Criminal Original Petition is filed under Section 439(1)(b) of Cr.P.C. to modify the conditions sofar as the direction to the petitioner to deposit his original passport before the Court is concerned and to execute a bond for Rs.10,000/-with two sureties and solvency from concerned Tahsildar for the sureties for a like sum are concerned imposed by the learned Judicial Magistrate No.I, Madurai in Cr.M.P.No.2183 of 2018 order dated 29.08.2018 and permit the petitioner to deposit cash sureties.

For Petitioner : Mr.S.M.A.Jinnah

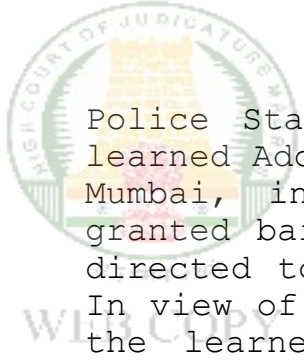
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (crl.side)

ORDER

The petitioner has filed this modification petition seeking to modify the conditions sofar as the direction to the petitioner to deposit his original passport before the lower Court is concerned and to execute a bond for a sum of Rs.10,000/-with two sureties each for a like sum and solvency certificate from concerned Tahsildar imposed by the learned Judicial Magistrate No.I, Madurai in Cr.M.P.No.2183 of 2018 order dated 29.08.2018 and to permit the petitioner to deposit cash sureties.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) for the respondent.

3.The contention of the petitioner is that the petitioner has implicated into this case as a scapegoat and he has no nexus with the above case. The petitioner has falsely implicated into a case in Crime No.102 of 2018, which is pending on the file of the MIDC



Police Station, Mumbai, for which, the petitioner approached the learned Additional Chief Metropolitan Magistrate 22nd Court, Andheri, Mumbai, in R.A.No.110/RA/2018 and on 15.05.2018 the said Court granted bail to the petitioner on condition that the petitioner is directed to produce his Original Passport before the above Court. In view of the same, the Original Passport has been produced before the learned Additional Chief Metropolitan Magistrate 22nd Court, Andheri, Mumbai and hence, the petitioner could not able to comply with the condition imposed by the learned Judicial Magistrate No.I, Madurai, in Cr.M.P.No.2183 of 2018. Further, the petitioner being a Foreign National (Citizen of Nigeria), he is unable to secure solvency certificate from the Revenue Authorities. Due to non compliance of the above condition, though petitioner granted bail on 29.08.2018, he is still confined in prison.

4.I have carefully considered the submissions made on either side and perused the materials available on record.

5.It is seen from the affidavit of the Inspector of Police, Cyber Crime Cell, Madurai City that in pursuant to the order of the learned Additional Chief Metropolitan Magistrate 22nd Court, Andheri, Mumbai, the petitioner had deposited his Original Passport, who are asked to verify the claim of the petitioner about the deposit of Original Passport. It is found that the Inspector of Police, Madurai City, had made an enquiry with the Assistant Police Inspector of MIDC Police Station, Mumbai, one Srinivas Kamuni, and confirmed that the Passport of the petitioner is in Mumbai Police Station.

6. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioner, this Court modifies the condition imposed by the Lower Court is as follows:

(i)The petitioner already deposited his Original Passport before the learned Additional Chief Metropolitan Magistrate 22nd Court, Andheri, Mumbai, in Crime No.102 of 2018. Hence, the petitioner need not be insisted the Original Passport before the learned Judicial Magistrate No.I, Madurai, in Cr.M.P.No.2183 of 2018.

(ii)The Solvency Certificate from the concerned Tahsildar of his sureties need not be insisted.

7.With this Observation, this Criminal Original Petition stands allowed.

Sd/-
Assistant Registrar (Crl.Side)

/True Copy/



To

1.The Judicial Magistrate No.I,
Madurai.

2.The Inspector of Police,
CCB (Cyber Crime),
Madurai.

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

Copy to

The Additional Chief Metropolitan Magistrate 22nd Court,
Andheri,
Mumbai.

+1CC TO Mr.S.M.A.JINNAH, Advocate, Sr No.23733

Cr1.O.P. (MD) No.21223 of 2018
19.12.2018

Ls

MS/PN-AC/SAR-3/20.12.2018/3P.6C