

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.1823 of 2019

Nondi Sullan @ Arokiadoss @ Doss
S/o.Late Settu.

...Petitioner

-Vs-

State rep. by Inspector of Police,
Tambaram Railway Police Station,
Tambaram.
(Crime No.176 of 2016)

.... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to modify the condition that imposed on production of permanent residential proof of the petitioner/accused is ordered to be realised on his executing a bond for Rs.10,000/- with two sureties each for like sum each to the satisfaction of Judicial Magistrate, Tambaram with condition to report before the Additional District and Session Judge, Chengalpattu on all working days at 10.00 a.m. until further orders by the learned Additional District and Sessions Court, Chengalpattu by its order dated 26.10.2018 in Crl.M.P.No.4572 of 2018 in S.C.No.127 of 2016 and to direct to release the petitioner on bail in his own bond.

For Petitioner : Mr.P.Palaninathan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to modify the condition imposed by the Court below while granting bail to the petitioner.

2. This petitioner was arrested by the respondent police for an offence under Section 302 IPC. Since the final report was not filed within a period of 90 days, the petitioner applied for a statutory bail under Section 167(2) Cr.P.C. The

Court below by an order dated 26.10.2018, granted bail to the petitioner by imposing certain conditions. One of the condition was that, the petitioner has to produce a permanent residential proof. The petitioner is aggrieved by this condition.

3. The learned counsel for the petitioner submitted that the parents of the petitioner are no more and the only other close relative available to the petitioner is his sister and this petitioner is not aware, where his sister is living. The learned counsel further submitted that the petitioner has been inside the jail for more than three years and therefore, he has lost touch with all the family members and therefore, it will not be possible for the petitioner to produce proof for permanent residence. The learned counsel submitted that he will be able to produce the proof for a temporary residence, since he has to any way furnish surety at the time of execution of bail bond. The learned counsel submitted that in the absence of the permanent residence, the petitioner cannot be denied the right which has been conferred on him under Section 167(2) Cr.P.C. and thereby permanently confined in jail.

4. This Court also heard the submissions made by the learned Additional Public Prosecutor.

5. This Court of the considered view that the petitioner is not able to produce any permanent residential proof. This has virtually prevented the petitioner from being released from the jail and the petitioner has been inside the jail for more than three years. The condition imposed at the time of granting statutory bail should not be such that, it will prevent the accused from getting out of the jail due to impossibility of complying with the conditions. Therefore, the Court has to ensure that the condition imposed is such that the accused person is capable of complying with the same.

6. In view of the above, the condition imposed by the Court below is modified to the extent that the petitioner is permitted to produce the proof of any temporary residence. The Court below shall ensure that the proof given by the petitioner is genuine by asking the respondent police to conduct an inspection. Only after satisfying about the same, the Court below shall proceed to permit the petitioner to execute the bail bond along with surety. The other conditions imposed by the Court below shall stand as it is.

7. Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsa/rm

To

1.The Judicial Magistrate,
Tambaram.

2.The Additional District and Session Judge,
Chengalpattu.

3.The Inspector of Police,
Tambaram Railway Police Station,
Tambaram,
Chennai.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Palaninathan, Advocate, S.R.No.8734

Crl.O.P.No.1823 of 2019

MP (CO)
GSP (21/02/2019)



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