

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.2265 of 2019

Anthony Raj

... Petitioner

Vs.

State Rep.by
The Inspector of Police,
G-1, Vepery Police Station,
Chennai
(Crime No.456/2018)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to modify the condition imposed in CrI.M.P.No.206 of 2019 dated 18.01.2019 on the file of XIV Metropolitan Magistrate, Egmore, Chennai that the petitioner should deposit a sum of Rs.15 lakhs and execute a bail bond for a sum of Rs.1 lakh with two sureties.

For Petitioner : Mr.B.Kumarasamy

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. The respondent police has registered an FIR in Crime No.456 of 2018 for the offence under Sections 406, 420, 468 and 471 IPC. This petitioner has been shown as A1. The petitioner was arrested and remanded to judicial custody on 21.12.2018. The petitioner filed a petition seeking for bail and the Court below granted bail by imposing conditions. The petitioner is aggrieved by two of the conditions imposed by the Court below viz.,

(i) directing the petitioner to deposit a sum of Rs.15,00,000/- as cash security and;

(ii) directing the petitioner to execute a bond for a sum of Rs.1,00,000/- with two sureties for a like sum.

3 The learned counsel for the petitioner submitted that the transaction is purely a business transaction and therefore, the Court below went wrong in imposing the conditions, which are onerous in nature. The learned counsel further submitted that this Court has deprecated the practice of imposing condition of deposit of money as cash security. The learned counsel further submitted that this petitioner has already suffered incarceration for more than 45 days. Therefore, the learned counsel submitted that the conditions imposed by the Court below has to be modified.

4 The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that a total amount that is involved in this case nearly Rs.48,82,815/- and the Court below taking into consideration the facts and circumstances of the case, has imposed reasonable conditions. The conditions imposed by the Court below does not require any interference.

5 This Court has carefully considered the submission made on either side and also materials placed on record. The allegations made in the complaint shows that there has been a business transaction between this petitioner and the defacto complainant. The Court below got swayed only by the allegation that this petitioner had promised to sell a property, which actually does not belong to him. Therefore, the Court below thought it fit to impose the above said conditions.

6 In the facts and circumstances of the case, the conditions imposed by the Court below are onerous. Unless the situation so warrants, the Court considering the bail application should not normally insist for a cash security. Therefore, the Court below ought not to have imposed the condition of cash security as against the petitioner. This Court is also of the considered view that the surety amount fixed by the Court, is also on the higher side and the same also requires the interference of this Court.

7 In view of the above, the conditions imposed by the Court below shall stand modified. The condition regarding cash security is hereby set aside. Insofar as the bond and surety are concerned, the petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties for a like sum. The other conditions imposed by the Court below shall stand as it is.

8 This Criminal Original Petition is disposed of accordingly.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rpl/mpa

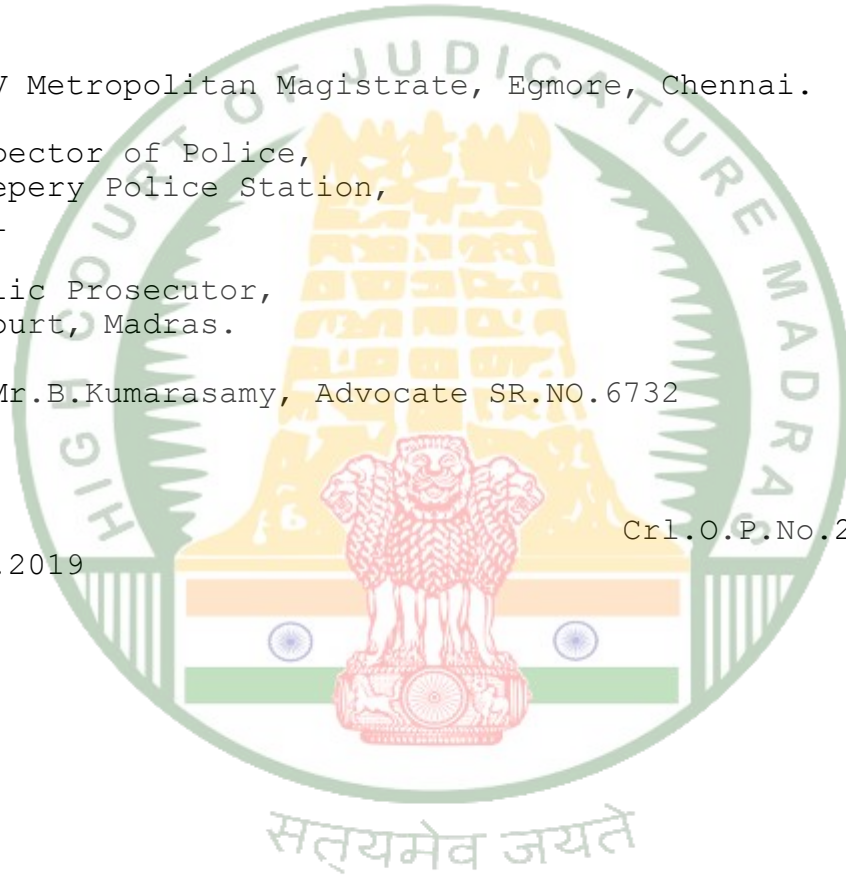
To

1. The XIV Metropolitan Magistrate, Egmore, Chennai.
- 2.The Inspector of Police,
G-1, Vepery Police Station,
Chennai
- 3.The Public Prosecutor,
High Court, Madras.

+2 cc to Mr.B.Kumarasamy, Advocate SR.NO.6732

CSL/30.01.2019

Crl.O.P.No.2265 of 2019



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