

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.6949 of 2019

Babu

.. Petitioner

Vs.

The State Represented by
Inspector of Police,
Cuddalore NT Police Station
Cuddalore.
(Crime No.451 of 2018)

.. Respondent

COMMON PRAYER: Criminal Original petitions have been filed under Sections 439 (1) (b) of the Code of Criminal Procedure, to modify the order dated 13.12.2018 in Crl.M.P.No.3655 of 2018 on the file of the Judicial Magistrate No.II, Cuddalore.

For Petitioner : M/s.S.Arivazhagan
For Respondent : Ms.M.Prabhavathi
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking for modification of the condition imposed by the Court below.

2. The petitioner was arrested and remanded to judicial custody and therefore, he filed a petition for bail before the Court below. The Court below while granting bail to the petitioner has imposed the following condition:

"Hence this court is inclined to grant bail on following condition to deposit Rs.8,00,000/- in this Court and to execute a bond for Rs.50,000/- each with 2 sureties".

3. The learned counsel for the petitioner submitted that this is a case which involves a loan transaction between the petitioner and the de-facto complainant. The learned counsel submitted that even as per the order passed by the Court below, out of the total amount of Rs.25,15,000/-, the petitioner has already repaid a sum of Rs.11,00,000/-. The Court below while considering the bail petition ought not to have imposed a

condition of cash deposit of a sum of Rs.8,00,000/-. The learned counsel further submitted that the petitioner is also aggrieved by the imposition of condition to execute a bond for Rs.50,000/- with two sureties since it involves deposit of title deeds of immovable property. The learned counsel submitted that the condition imposed by the Court below is onerous.

4. The learned Additional Public Prosecutor submitted that the Court below had imposed the condition after taking into consideration the facts and circumstances of the case and there is no ground to interfere with the same.

5. Taking into consideration, the facts and circumstances of the case and also the nature of the transaction between the petitioner and the de-facto complainant, this Court is of the considered view that the Court below ought not to have imposed cash deposit as a condition for bail. It has been repeatedly held by this Court that such condition can be imposed only in rare cases and depending upon the seriousness of the allegations and such condition should not be imposed in a routine manner.

6. In the result, the condition imposed by the Court below directing the petitioner to deposit a sum of Rs.8,00,000/- is hereby set aside. The petitioner is directed to execute a bond for a sum of Rs.10,000/- with two sureties for a likesum. The other condition imposed by the Court below shall stand as it is.

7. This Criminal Original Petition is disposed of, with the above modification.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1.The Judicial Magistrate No.II,
Cuddalore

2.The Inspector of Police,
Cuddalore NT Police Station,
Cuddalore.

3.The Public Prosecutor,
Madras High Court.

+1 CC to M/s.S.Arivazhagan, Advocate sr 25789.

Cr1.O.P.No.6949 of 2019

SP(20/03/2019)