

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Tuesday, the Twenty Eighth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION No.7238 of 2019

IN CRL OP.8776/2019

BHOOPESH KUMAR JAIN

[ PETITIONER / ACCUSED ]

Vs

THE DEPUTY DIRECTOR [ RESPONDENT ]  
DIRECTORATE OF ENFORCEMENT,  
2ND AND 3RD FLOOR NO.84,  
MURUGESAN NAICKER OFFICE COMPLEX,  
GREAMS ROAD, THOUSAND LIGHTS,  
CHENNAI - 600 006.

Petition praying that in the circumstances stated therein the High Court will be pleased to modify conditions 7(a) in the order passed in Cr.M.P.No.5680 of 2019 in Crl.O.P.No.8776 of 2019 dated 29.04.2019 while releasing the Petitioner on bail in relation to ECIR/CEZO/Z- 1/07/2018, pending on the file of the respondent and thus render Justice.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of MR.N.R.ELANGO SENIOR COUNSEL FOR M/S.P.SOLOMON FRANCIS, Advocate for the petitioner and of MR.N.RAMESH SPECIAL PUBLIC PROSECUTOR FOR ED CASES on behalf of the Respondent the court made the following order:-

This Court had passed the following order on 26.06.2019.

"This petition has been filed seeking for modification of condition (a) imposed in Crl.M.P.No.5680 of 2019 dated 29.04.2019.

2. Originally while granting bail to the petitioner, this Court had imposed a condition to the effect that the petitioner shall deposit title deeds to the tune of Rs.25 Crores either of the property belonging to the petitioner or his relatives or his friends or all put together. The petitioner was not able to comply with the condition and therefore, he filed Crl.M.P No.5860 of

2019 seeking for modification of the condition. This Court taking into consideration the difficulty faced by the petitioner in arranging for the immovable property security, modified the condition to the effect that the petitioner will deposit title deeds to the tune of Rs.10 Crores.

3. The present petition has been filed seeking to modify the condition further on the ground that the petitioner is not in a position to arrange for immovable property security of a value of Rs.10 Crores.

4. The learned counsel for the petitioner submitted that the petitioner has suffered incarceration from 25.05.2018 onwards. Eventhough bail was granted by this Court by an order dated 16.04.2019, till date the petitioner is not able to come out since he is not able to fulfill the condition with regard to the immovable property security. The learned counsel further submitted that inspite of the value of the property being reduced from Rs.25 Crores to Rs.10 Crores, this petitioner is not able to arrange for such property security. Therefore, the present petition has been filed seeking to modify the condition and reduce the value of the immovable property security.

5. The Special Public Prosecutor appearing on behalf of the respondent vehemently opposed this modification petition. The learned counsel submitted that this Court had imposed the condition after taking into consideration the serious nature of the allegations made in the complaint and the public interest involved in this case. The learned counsel further submitted that this Court has already reduced the value of the security from Rs.25 Crores to Rs.10 Crores and the petitioner has the wherewithal to arrange for such a security and therefore, the present modification petition should not be entertained by this Court.

6. This Court has carefully considered the submissions made on either side.

7. This Court is not inclined to modify the condition that was imposed in Crl.M.P.No.5680 of 2019 by an order dated 29.04.2019. However, taking into consideration the long incarceration suffered by the petitioner, this Court wants to give an opportunity to the petitioner to make arrangements to give immovable property security worth Rs.10 Crores, by granting interim bail to the petitioner. This opportunity is given finally to the petitioner to satisfy the condition imposed by this Court.

8. In view of the above, the petitioner shall be released on interim bail subject to the following conditions

a) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum and both the sureties shall be a blood relatives, to the satisfaction of the Principal Sessions Judge (Special Court for PMLA Cases), Chennai.

b) The petitioner shall arrange for the deposit of the title deeds to the tune of Rs.10 Crores either of the property belonging to the petitioner or his relatives or his friends or all put together, within a period of four weeks from the date of receipt of copy of this order.

c) The petitioner shall report before the respondent daily at 10.30 a.m during the period of interim bail granted to the petitioner.

d) It is made clear that this Court is not inclined to modify the condition regarding the deposit of immovable property security and the petitioner has to necessarily comply with the condition within the time stipulated by this Court.

9. Post this case on 26.07.2019 for passing further orders."

2. Subsequent to the passing of the above order, there was a dispute with regard to the valuation of the properties, which were given as security. Therefore, this Court appointed an independent Agency to value the two properties which were given as security. After the valuation report was submitted before this Court, this Court passed the following order on 28.11.2019.

"The ITCOT Consultancy and Service Ltd., had valued the two properties and reported the total value as Rs.7,76,50,000/-. However, still its value is short to comply with the condition that the petitioner should offer title deeds of market value worth of Rs.10 crores. The learned counsel says that he would get further instruction on furnishing of further documents to make up said sum of Rs.10 Crores.

2. Post the matter again on 12.12.2019.".

3. The matter again came on 13.12.2019 and this Court passed the following order.

"This Court, by an order, dated 26.06.2019, granted interim bail to the petitioner, subject to certain conditions. One of the conditions, that was imposed by this Court, is extracted hereunder :

''(b) The petitioner shall arrange for the deposit of the title deeds to the tune of Rs.10 Crores either of the property belonging to the petitioner or his relatives or his friends or all put together, within a period of four weeks from the date of receipt of copy of this order.''

2. Pursuant to the abovesaid order, the petitioner had gone before the Court concerned and executed the sureties and also produced the title deeds for certain properties. The Court concerned was not satisfied with the value of the said properties. Therefore, the petitioner again approached this Court and sought for modification of the condition stated above.

3. Since the dispute involved is with regard to the value of the properties, this Court had appointed ITCOT Consultancy and Services Ltd. to evaluate the properties.

4. It was reported before this Court by the said Consultancy on 28.11.2019 that the total value of the said properties was Rs.7,76,50,000/-, which fell short of the value that was stipulated by this Court as a condition.

5. In view of the above development, the petitioner has now come up before this Court with a plea, stating that he is willing to offer six plots, situated in Survey No.412/1 Part, Patta No.4754, in Pallavaram Circle, 91 Kundrathur 'B' Village, Kancheepuram District, which, according to the petitioner, has a market value of Rs.4,00,12,500/-.

6. Mr.N.R.Elango, learned Senior Counsel, appearing on behalf of the petitioner, submitted that the petitioner is taking all efforts to satisfy the condition imposed by this Court. The learned Senior Counsel further submitted that there is a shortfall in the value of the properties, which were already offered as security, and, therefore, the petitioner is prepared to set off the difference in the valuation, by offering six plots, which, according to the petitioner, is valued at Rs.4.00 crores and odd. The learned Senior Counsel also submitted that, by offering this additional security, the condition imposed by this Court, while granting interim bail to the petitioner, will be satisfied and, therefore, the petitioner may be permitted to offer the additional properties also as security before the Court below, so as to fulfil the condition (b) above, imposed by this Court.

7. Mr.N.Ramesh, learned Special Public Prosecutor, appearing for the respondent, has submitted that the petitioner may be permitted to offer the additional properties offered by the petitioner and the Court below can be directed to satisfy itself regarding the value of the properties, which are given as additional security. He

would further submit that, in the meantime, the respondent will also check up the value of the properties, which are now offered as additional security.

8. This Court has carefully considered the submissions made by the learned counsel on either side.

9. In view of the above development, there shall be a direction to the petitioner to furnish the original documents of all six plots, situated in Survey No.412/1 Part, Patta No.4754, in Pallavaram Circle, 91 Kundrathur 'B' Village, Kancheepuram District, before the Court below within a period of one week from the date of receipt of a copy of this order. Thereafter, the Court below is directed to take the additional security that is offered by the petitioner and satisfy itself with regard to the valuation of the property. If the value of the property, offered as additional security by the petitioner, is able to set off the shortfall, the Court below can proceed to record its satisfaction.

10. Criminal Miscellaneous Petition is disposed of accordingly.

11. Post this matter for reporting compliance on 03.01.2020 at 02.15 p.m."

4. The petitioner sought for clarification of the above order and this Court passed the following order on 03.01.2020.

"This Court while passing the earlier order on 13.12.2019, had mentioned at para 9 of the order that the petitioner will furnish the original documents of the six plots situated in Survey No.412/1 Part, Patta No.4754, in Pallavaram Circle, 91 Kundrathur 'B' Village, Kancheepuram District, before the Court below within a period of one week from the date of receipt of a copy of the order.

2. The matter is today posted for reporting compliance.

3. The learned counsel for the petitioner submitted that the original documents that is available covers the entire property which measures 4.33 acres. This property was plotted and several plots were sold and six plots remain unsold. Therefore, the learned counsel submitted that there are no original documents exclusively covering the six plots and what is available is the original document pertaining to the entire property. The learned counsel submitted that this original document pertaining to the entire property will be furnished as a security before the Court below.

4. In view of the above submission made by the learned counsel for the petitioner, para 9 of the order passed by this Court on 13.12.2019, is modified to the extent that "the petitioner is directed to furnish the original documents pertaining to the property in Survey No.412/1 Part, Patta No.4754, in Pallavaram Circle, 91 Kundrathur 'B' Village, Kancheepuram District before the Court below within a period of one week from the date of receipt of a copy of this order". It is made clear that this original document will pertain itself only to the six unsold plots. Thereafter, the Court below is directed to take the additional security that is offered by the petitioner and satisfy itself with regard to the valuation of the property. If the value of the property offered as additional security by the petitioner, is able to set off the shortfall, the Court below can proceed to record its satisfaction.

Post this matter for reporting compliance on 24.01.2020 at 2.15 p.m."

5. After the above order was passed, the petitioner had furnished the documents before the Court below and the same was returned on the ground that the petitioner will have to furnish the original documents for all the properties that were given as security. The learned counsel appearing for the petitioner again mentioned the case before this Court and therefore, in order to bring an end any further confusion, this order is passed by this Court.

6. The petitioner has already identified two properties as security and the total value of the property was determined as Rs.7,76,50,000/-. For the balance value, the petitioner was directed to offer documents and the petitioner identified six plots. The petitioner also undertook to deposit the title document of the entire property measuring an extent of 4.33 acres. According to the petitioner, these six plots is worth more than Rs.4.00 crores. Therefore, the learned counsel appearing for the petitioner submitted that all the documents put together is valued more than Rs.10.00 crores.

7. The petitioner is directed to furnish the original documents of all the properties that are given as security, before the Court below within a period of one week from the date of receipt of a copy of this order. The petitioner is also directed to file the Encumbrance Certificate of all the properties that are given as security to ensure that there is no encumbrance on those properties till date. The Court below is directed to satisfy itself with regard to the valuation of the properties, namely, the six plots that have been offered by the petitioner. If the value of the property is able to set off the short fall, the Court below can proceed to record its satisfaction. The petitioner is directed to represent the papers along with the original documents. If, in future, the petitioner requires the original documents, a proper application can be moved before this Court by giving the reasons as to why the original documents are required and

the return of the original documents will be considered at that point of time.

8.Post this case for reporting compliance on 07.02.2020.

-sd/-

28/01/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SESSION JUDGE  
(SPECIAL COURT FOR PMLA CASES) CHENNAI

2 THE SPECIAL PUBLIC PROSECUTOR FOR ED CASES,  
HIGH COURT, MADRAS.

3 THE DEPUTY DIRECTOR  
DIRECTORATE OF ENFORCEMENT, 2ND AND 3RD  
FLOOR NO.84, MURUGESAN NAICKER OFFICE  
COMPLEX, GREAMS ROAD, THOUSAND LIGHTS,  
CHENNAI - 600 006.

4 THE ADDITIONAL CHIEF METROPOLITAN MAGISTRATE,  
(E.O.I) EGMORE, CHENNAI.

5 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAL

+1 C.C. to P.SOLOMON FRANCIS Advocate on payment of necessary  
charges SR.NO.1619

Order

in  
CRL MP.7238/2019

in  
CRL OP.8776/2019

Date :28/01/2020

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