

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.06.2019

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15574 of 2019

V.Sathish Kumar

.. Petitioner

Vs.

The state rep. by
The Inspector of Police,
CCB-1, Team,
Chennai-7.
(Crime No.137 of 2019)

.. Respondent

PRAYER: Criminal Original petition has been filed under Sections 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the order passed in Crl.M.P.No.9404 of 2019 dated 22.05.2019 on the file of the learned VII Additional Sessions Judge, (Vacation Sessions Judge), Chennai and set aside the onerous condition that the petitioner is directed to deposit Rs.30,00,000/- before the CCB and CBCID Cases Court in Crime No.137 of 2019 and also title deed documents in respect of immovable property for Rs.30,00,000/- which stand in the name of the petitioner or in the name of his wife imposed on the petitioner and consequently direct the Metropolitan Magistrate for CCB-CBCID cases at Egmore, Chennai to return both the title deed and the cash deposit which had been deposited by the petitioner in Crime No.137 of 2019.

For Petitioner : Mr.Niranjana S.Kumar

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

सतसमेन जयते
O R D E R

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

2. An FIR came to be registered in Crime No.137 of 2019 by the respondent police for the offences 409, 420 and 506(i) r/w 34 of IPC. The petitioner was arrested and remanded to judicial custody. He filed a bail petition before the VII Additional Sessions Court, Chennai (Vacation Court). The Court below while granting bail to the petitioner, imposed certain condition. The petitioner is aggrieved by condition (c) wherein the petitioner was directed to deposit a sum of Rs.30,00,000/- and also was

further directed to deposit title documents in respect of the immovable property for a sum of Rs.30,00,000/-. The petitioner has in fact complied with the condition and has come out on bail.

3. The learned counsel for the petitioner submitted that the Court below failed to take into consideration the facts and circumstances and the Court below went wrong in imposing such onerous conditions, wherein the petitioner was directed to make cash deposit of a sum of Rs.30,00,000/- and also was directed to deposit title documents for the very same amount. The learned counsel submitted that this condition that was imposed by the Court below runs against the settled principles of law and for this purpose, the learned counsel brought to the notice of this Court, the judgement in Darsana Bai (died) and others v. C.Saroja and others reported in 2014 2 MLJ page 403 and in Roshan v. The State rep. By the Inspector of Police, Mylapore Police Station, Chennai reported in 2014 3 Madras Weekly Notes page 425.

4. The learned Additional Public Prosecutor submitted that the Court below took into consideration the facts and circumstances of the case and thereafter, imposed the condition and the petitioner himself had volunteered to make the cash deposit of a sum of Rs.30,00,000/- and after coming out on bail, the petitioner is turning around and also trying to wriggle out the condition.

5. This Court has carefully considered the submissions made on either side and the materials placed on record.

6. In the considered view of this Court, the Court below ought to have taken into consideration the merits of the case that was projected by the petitioner at the time of arguing the bail petition. It is seen from the records that there were money transaction between the parties and in the year 2018 itself, the FIR came to be registered against the petitioner at Kanyakumari and the dispute got settled between the parties. Even subsequently, there were exchange of notices between the parties and the entire dispute was predominantly civil in nature. This was not taken into consideration by the Court below while imposing conditions while granting bail to the petitioner.

7. As rightly pointed out by the learned counsel for the petitioner insisting for a cash security should be an exception and under normal circumstances, the same should not be insisted. The judgment cited by the learned counsel for the petitioner makes this position very clear. The Court must be careful while imposing conditions and should ensure that it does not become too onerous disabling the accused from complying with it.

8. In the facts and circumstances of the case, this Court is inclined to partly modify the condition (c) imposed by the Court below. The deposit of a sum of Rs.30,00,000/- was done pursuant to the stand taken by the learned counsel for the petitioner who said that the petitioner is willing to deposit a sum of Rs.30,00,000/-. This Court does not want to interfere with the said condition.

9. However, insofar as insisting the petitioner to deposit immovable property security to the tune of Rs.30,00,000/- is concerned, the same requires interference and in the considered view of this Court, the said condition is onerous.

10. In the result, this Criminal Original Petition is partly allowed and the condition imposed by the Court below directing the petitioner to deposit title documents in respect of immovable property to the tune of Rs.30,00,000/- is hereby set aside and the Court below is directed to return the title documents deposited by the petitioner at the time of execution of the bond. The other conditions imposed by the Court below shall stand as it is.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. The VII Additional Sessions Judge,
(Vacation Sessions Judge), Chennai.

2. The Metropolitan Magistrate
for CCB- CBCID Cases,
Egmore, Chennai.

3. Inspector of Police,
CCB-1, Team, Chennai-7.

4. The Public Prosecutor,
Madras High Court.

+1cc to Mr.Niranjan S.Kumar, Advocate, S.R.No.49718

Cr1.O.P.No.15574 of 2019

SV(CO)

RRS (24/07/2019)