

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.16779 of 2019

Odefe Hendry Aruture

..Petitioner /Petitioner/
Accused

Vs.

State Rep. by
Inspector of Police,
Central Crime Branch,
Bank Fraud Prevention Wing,
Team XXXI, Chennai

..Respondent/Respondent/
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to modify the condition imposed on him by the Court of the CCB, CBCID M.M, Egmore, Chennai in Crl.MP.No.6654 of 2019 by an order dated 19.06.2019 directing the petitioner herein that he shall deposit a sum of Rs.5 lakhs (five lakhs) to the credit of Crime No.356 of 2018 each and that he shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) on his own along with two other sureties for the like sum to the satisfaction of the lower Court each one among the surety shall be a blood relative of the petitioner / accused and other shall be a Government surety to the effect that the petitioner shall be permitted to furnish Normal Surety instead of blood related surety and also permit the petitioner without depositing the said sum of Rs.5 lakhs (Five lakhs only) to the credit of the above said Crime No.356 of 2018 on the file of respondent herein.

For Petitioner: Mr.V.Veluchamy

For Respondent: Mr.M.Mohamed Riyaz

Additional Public Prosecutor

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O R D E R

This petition has been filed seeking for modification of the condition imposed by the Court below while granting statutory bail to the petitioner.

2. The petitioner was arrested and remanded to judicial custody for an offence under Section 419, 420, 465, 468, 471 and Section 43 r/w 66 of IT Act @ U/s.120(B) r/w. 419,

420, 465, 468, 471 of IPC and Section 43 r/w 66 of IT Act. Since the final report was not filed within the statutory period, the petitioner filed a petition under Section 167 (2) Cr.PC seeking for statutory bail.

3. The Court below allowed the said petition subject to certain conditions. The petitioner is aggrieved by the condition imposed by the Court below, wherein the petitioner has been directed to deposit a sum of Rs.5,00,000/- (Rupees five lakhs only) to the credit of Crime No.356 of 2018.

4. The learned counsel for the petitioner submitted that while considering a statutory bail under Section 167(2) of Cr.PC, the Court below cannot impose such a onerous condition and therefore, the condition imposed by the Court below insisting for a cash deposit of Rs.5,00,000/- (Rupees five lakhs only), requires interference of this Court.

5. Heard the submissions of learned Additional Public Prosecutor appearing on behalf of the respondent.

6. It is now a settled law that when a Court considers a statutory bail, onerous condition cannot be imposed and the Court has to satisfy itself with the only requirement as to whether the accused person is prepared to furnish bail. Useful reference can be made to the Judgement of this Court in 2019 1 LW(Crl.) 387 [Umadevi Vs. The State Rep. by the Inspector of Police, EOW II, Coimbatore]. Therefore, the condition imposed by the Court below insisting for cash deposit of Rs.5,00,000/- requires interference and since the petitioner is not in a position to comply with the said condition, they are not come out on bail till today.

7. In the result, the condition imposed by the Court below directing the petitioner to deposit a cash for a sum of Rs.5,00,000/- (Rupees five lakhs only) to the Credit of Crime No.356 of 2018 is hereby set aside and accordingly, the condition imposed by the Court below is modified and other conditions imposed by the Court below shall stand as it is.

8. Accordingly, this Criminal Original petition is allowed.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

rka/msrm

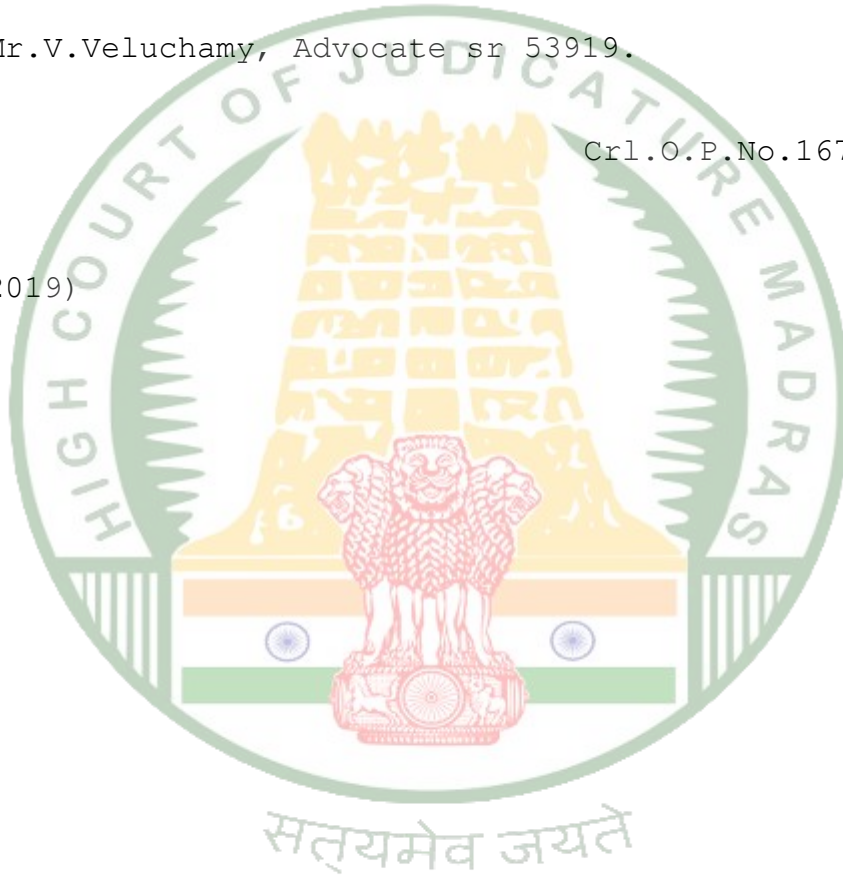
To

1. The Magistrate,
CCB, CB CID Metropolitan Magistrate, Egmore, Chennai.
2. The Inspector of Police,
Central Crime Branch,
Bank Racket, Team XI,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

+1 CC to Mr.V.Veluchamy, Advocate sr 53919.

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CNR(CO)
SP(01/07/2019)



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