

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 23.07.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.O.P No.19486 of 2019

1. Devarajan

2. Boopathi

Petitioners/
Accused 4&5

vs.

State by

The Inspector of Police,
Economic Offence Wing (EOW-II),
Coimbatore.
(Crime No.4 of 2013)

Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the condition that "after release of both petitioners shall deposit a sum of Rs.5,00,000/- each in to this Court to the credit of C.C.No.3 of 2019 within 15 days" imposed in Crl.M.P.No.1689 of 2019 in C.C.No.03 of 2019 by the Special Judge, Special Court for TNPID Cases, Coimbatore.

For Petitioners : Mr.R.Vivekananthan
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking for modification of the condition imposed by the Court below while granting bail to the petitioners wherein the petitioners were directed to deposit a sum of Rs.5,00,000/- each within fifteen days.

2. It is seen from records that the petitioners have been arrayed as A4 and A5 in FIR. The petitioners filed an anticipatory bail petition before this Court in Crl.O.P.No.7626 of 2013 and this Court by an order dated 03.09.2013 granted anticipatory bail by imposing certain conditions. One of the condition imposed by this Court was that each of the petitioner should deposit a sum of Rs.10,00,000/- to the credit of Crime No.04 of 2013 within a period of four weeks. The petitioners did not comply with this condition. Ultimately, the petitioners were arrested based on non bailable warrant issued by the Court below and they were remanded to Judicial Custody on 30.05.2019 and 12.06.2019 respectively.

3. The petitioners filed a bail petition before the Court below and the Court below by an order dated 12.07.2019 was pleased to enlarge the petitioner on bail by imposing certain conditions. One of the condition imposed by the Court below was that the petitioners must deposit a sum of Rs.5,00,000/- each in the Court.

4. The learned counsel for the petitioner submitted that the investigation has been completed and the charge sheet has already been filed by the respondent police. The learned counsel further submitted that these petitioners were not directly involved in the offence and the condition imposed by the Court below is onerous and it is not warranted in the facts of the present case. The learned counsel submitted that the petitioners did not even execute the bond after the anticipatory bail was granted by this Court since they were not in a position to arrange for a sum of Rs.10,00,000/- which was directed to be deposited by this Court. Therefore, the learned counsel submitted that, the petitioners are not in a position to comply with the condition imposed by the Court below and the same requires interference of this Court.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the petitioners did not comply with the earlier conditions imposed by this Court in the year 2013, when anticipatory bail was granted in their favour. Learned counsel submitted that the petitioners ultimately were arrested only in the year 2019 and the Court below on considering the facts and circumstances of the case was right in imposing the conditions against the petitioners and there is no ground to interfere with the same.

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

7. The petitioners had approached this Court and filed anticipatory bail petitions in the year 2013. This Court while granting anticipatory bail had imposed a specific condition that each of the petitioners should deposit a sum of Rs.10,00,000/- within a period of four weeks. This order was not complied with nor did the petitioners approach this Court seeking for any modification. Ultimately the petitioners were arrested and remanded to judicial custody pursuant to the non bailable warrant issued by the Court below after an absconding charge sheet was filed by the respondent police.

8. The Court below took into consideration, the conduct of the petitioners in not complying with the earlier order passed by this Court and therefore thought it fit to impose a condition to the effect that the petitioners will deposit a sum of Rs.5,00,000/- each in the Court within fifteen days.

9. Under normal circumstances, this Court would have leaned in favour of the petitioners, considering the fact that

the charge sheet has already been filed in this case. However, this Court is not convinced with the conduct of the petitioners, since the petitioners after getting an order of anticipatory bail before this Court did not comply with the conditions and did not come before this Court seeking for modification of the conditions. The petitioners took advantage of the order of anticipatory bail and they were not arrested by the respondent police right through the investigation. Ultimately, only after filing an absconding charge sheet against the petitioners, the Court below had issued a non-bailable warrant in order to secure the petitioners. Therefore, this Court does not find anything wrong in the Court below directing the petitioners to deposit a sum of Rs.5,00,000/- each as a condition for the grant of bail.

10. However, Taking into consideration the facts and circumstances of the case and also of the fact that a final report has already been filed and the petitioners have already suffered incarceration for more than a month, this Court is inclined to modify the 2nd condition imposed by the Court below to the effect that each of the petitioner shall deposit immovable property title deeds of the property belonging to them or of their relatives or their friends or all put together which is worth a sum of Rs.5,00,000/-. The other conditions imposed by the Court below shall stand as it is.

11. This Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

ssr

Note: Issue Order Copy on 24.07.2019
To

- 1.Special Judge,
Special Court for TNPID Cases,
Coimbatore.
2. The Inspector of Police,
Economic Offence Wing (EOW-II),
Coimbatore.
3. The Public Prosecutor,
High Court of Madras, Madras.

+1cc to Mr. R.Vivekanandan, Advocate SR.No. 62903

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