

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.07.2019

CORAM
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.19821 of 2019

Arokiya Alousias

... Petitioner/Accused 3

Vs.

State represented by
Sub Inspector of Police,
Central Crime Branch,
Forgery Wing, Team - V,
Chennai.
(Crime No.63 of 2019)

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the onerous condition imposed by the Principal Judge, Chennai, in his order dated 19.06.2019, passed in Crl.M.P.No.10784 of 2019.

For Petitioner : Mr.A.Aravindan

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

O R D E R

This petition has been filed challenging the condition imposed by the Court below, directing the petitioner to deposit a sum of Rs.25 lakhs, while granting bail to the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner was arrested and remanded to judicial custody by the respondent police on 21.04.2019. He filed a bail petition before the Court below and the Court below after taking into consideration the facts and circumstances of the case and also taking into consideration the incarceration already suffered by the petitioner was pleased to grant bail to the petitioner by imposing certain conditions. One of the condition imposed by the Court below was that he should deposit a sum of Rs.25 lakhs to the credit of Crime No.63 of 2019.

3. Even though, the order was passed on 19.06.2019, till date, the petitioner is not in a position to comply with the condition and therefore, the petitioner continues to suffer incarceration and he has been inside for nearly 96 days.

4. The learned Additional Public Prosecutor, on instructions, submitted that there are totally 60 victims in this case, who have been cheated to the tune of Rs.3,03,00,000/-. The police were able to seize only some gold jewellery and property documents and the money is yet to be recovered in this case. The learned counsel submitted that the Court below, took into consideration the seriousness of the offence and had imposed the condition to the petitioner to deposit a sum of Rs.25 lakhs. The learned counsel submitted that there is no ground to interfere with the said condition.

5. This Court does not find any illegality or infirmity in the order passed by the Court below and the Court below on taking into consideration the facts and circumstances of the case, thought it fit to impose such a condition.

6. However, there is change in circumstances and the petitioner has now suffered incarceration for more than the statutory period of 90 days and till date the prosecution has not filed the final report. Therefore, the petitioner will be entitled to default bail under Section 167 (2) of Cr.P.C. This Court has already dealt with a case where bail was granted by the Court below by imposing a condition for deposit and the said condition could not be complied by the accused person and in the meantime, the statutory period expired under Section 167(2) of Cr.P.C. This Court held that the accused persons will be entitled for statutory bail and while considering a statutory bail, the Court cannot impose an onerous condition and the Court must only satisfy itself as to whether the petitioner will be able to offer bail.

7. In view of the above development, this Court is inclined to interfere with the condition imposed by the Court below and treat the bail petition as statutory bail under Section 167(2) of Cr.P.C.

8. In the result, the condition No.6(a) imposed by the Court below is set aside. The other conditions imposed by the Court below shall stand as it is. Accordingly, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Judge, Chennai.

2.The Sub Inspector of Police,
Central Crime Branch,
Forgery Wing, Team - V,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.Arunselvam Associates, Advocate, S.R.No.64076

Cr1.O.P.No.19821 of 2019

SR(CO)

RRS (29/07/2019)



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