

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.26311 of 2019

1.Naresh Lakshmi Narayana Maharana
2.Anthony @ Eustace Agustine Vaz

...Petitioners

Vs

State represented by
The Inspector of Police,
Central Crime Branch-I,
Cyber Crime,
Chennai.
(Crime No.17 of 2018)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to modify the condition imposed to the petitioners that "the petitioners shall furnish each two sureties for like a sum of Rs.1,00,000/- to the satisfaction of the Court and one among the surety shall be a Government Servant and another surety shall be the blood relative of the accused in Crl.M.P.No.6875 of 2018 dated 03.12.2018 on the file of the CCB & CBCID Metropolitan Magistrate Court, Egmore, Chennai - 600 008".

For Petitioners: Mr.J.Samiullah

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

The petitioners, who have been arrayed as accused, were granted bail by the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai on 03.12.2018 in Crl.M.P.No.6875 of 2018 for the offences under Sections 43, 66(C) & 66(D) IT 2008, 419, 420 of IPC, on certain conditions that the petitioners shall deposit a sum of Rs.5 lakhs each to the credit of Cr.No.17 of 2018 and after compliance of the 1st condition cited above, the petitioners shall furnish each two sureties for like sum of Rs.1,00,000/- to the satisfaction of this Court and one among the surety shall be a Government Servant and another surety shall be the blood relative of the accused.

2. Thereafter, the petitioners had filed Crl.M.P.No.21820 of 2019 seeking to modify the said condition to deposit Rs.5,00,000/- lakhs each. By an order dated 19.12.2018, the learned Principal Sessions Judge, Chennai, had modified the condition directing each of the petitioner/accused to deposit title deed worth about Rs.5 lakhs before the Court concerned, instead of depositing a sum of Rs.5 lakhs each. Aggrieved against the same, the petitioners had filed another Crl.M.P.No.5218 of 2019 before the I Additional Sessions Judge, FAC - Principal Sessions Judge, Chennai, wherein the trial Court, by the order dated 18.03.2019, had deleted the condition imposed to deposit title deeds worth Rs.5 lakhs.

3. The present Criminal Original Petition has been filed seeking to modify the condition directing the petitioners to furnish two sureties each for like a sum of Rs.1,00,000/- to the satisfaction of the Court and one among the surety shall be a Government Servant and another surety shall be the blood relative of the accused.

4. Heard Mr.J.Samiullah, learned counsel appearing for the petitioners and Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondent.

5. This Court had an occasion to deal with the validity of onerous conditions being passed while granting orders of bail in S.J.John Basil & other vs State Rep. by its Deputy Superintendent of Police, EOW-II, Guindy, Chennai - 600032 in Crl.O.P.No.2600 of 2019 dated 06.02.2019. By relying on various judgments of the Hon'ble Supreme Court as well as this Court, it was held therein that the Courts are not empowered to impose onerous conditions. Following the rationale laid down in the various orders of the Hon'ble Supreme Court, the onerous conditions came to be modified in the said order.

6. I am of the view that the condition imposed by the trial Court is a similar onerous condition and in view of the stand taken in the aforesaid order, the present petition seeking for modification also requires consideration.

7. In the result, the Criminal Original Petition stands allowed. Consequently, the 2nd condition imposed in the earlier order dated 03.12.2018 passed in Crl.M.P.No.6875 of 2018, is modified to the effect that the petitioners shall execute a bond for a sum of Rs.1,00,000/- each with two sureties for a like sum, out of which, one surety should be the blood relative of the accused.

8. All other observations made in the earlier order dated 03.12.2018 shall remain intact.

jas/hvk

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

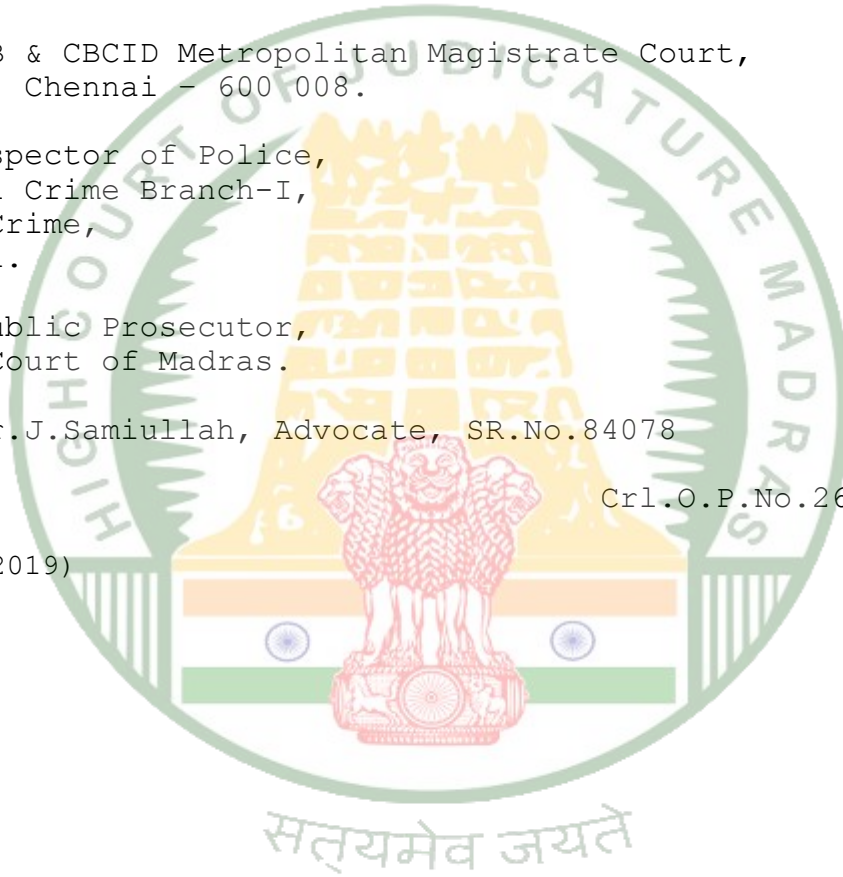
To

1. The CCB & CBCID Metropolitan Magistrate Court,
Egmore, Chennai - 600 008.
2. The Inspector of Police,
Central Crime Branch-I,
Cyber Crime,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.J.Samiullah, Advocate, SR.No.84078

Crl.O.P.No.26311 of 2019

Kak(01.10.2019)



WEB COPY