



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.31397 of 2019
and
Crl.M.P.No.17161 & 17162/2019

Devdip Ganguli

...Petitioner/Petitioner

Vs

1. Hemlata Prasad ..1st Respondent/1st Respondent/Complainant
2. State rep. by
Station House Officer,
Grand Bazar Police Station,
Puducherry. ..2nd Respondent/2nd Respondent/2nd Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the onerous conditions imposed by the Hon'ble Principal Session Judge at Puducherry in his order dated 18.11.2019 in Crl.M.P.No.2431 of 2019 in Crl.M.P.No.1240 of 2016 in unnumbered CC requiring (i) the petitioner to appear before the learned Sub Judge-cum-Judicial Magistrate, Yanam and (ii) the petitioner to execute a bond for Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum.

For Petitioner : Mr.C.A.Diwakar

For Respondents: Mr.D.Bharathachakravathy
Public Prosecutor for R2

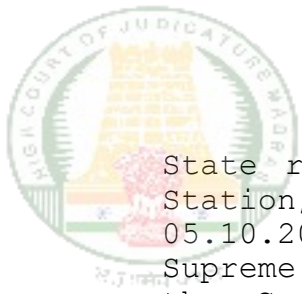
Hemalatha Prasad
Party-in-person for R1

O R D E R

The prayer in the present petition is to modify the conditions imposed by the learned Principal Sessions Judge at Puducherry in his order dated 18.11.2019 in Crl.M.P.No.2431 of 2019.

2. Heard the learned counsels appearing for the petitioner as well as the respondents.

3. This Court had an occasion to deal with the validity of onerous conditions being passed while granting orders of bail or anticipatory bail or release of vehicles in Thiruvassagam Vs.



State rep. by the Inspector of Police, B1, North Beach Police Station, Chennai-600 001 in CrI.O.P.No.20483 of 2017 dated 05.10.2017. By relying on various Judgements 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 condition came to be modified in the said order.

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

5. In the result, the conditions imposed by the learned Principal Sessions Judge, Puducherry in CrI.M.P.No.2431 of 2019, directing the petitioner to execute a bond for a sum of Rs.1,00,000/- with two sureties each for a like sum to the satisfaction of the Judicial Magistrate-II, Puducherry and the petitioner shall appear and sign before the Sub Judge-cum-Judicial Magistrate, Yanam at 10.00 AM continuously, without fail, until further orders except on the hearing dates of this committal case, are modified as follows:

1. the petitioner shall execute a bond for a sum of Rs.1,00,000/- with one surety.

2. the petitioner shall appear before the learned Judicial Magistrate-II, Puducherry daily at 10.00 AM, for a period of 15 days and thereafter as and when required by the 2nd respondent police.

6. The petitioner shall surrender before the concerned Judicial Magistrate, within a period of 1 week from the date of receipt of a copy of this order.

7. All other observations made in the earlier order dated 18.11.2019 in CrI.M.P.No.2431 of 2019, shall remain intact.

8. Accordingly, this Criminal Original Petition stands ordered. Consequently, connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar



To

1. The Judicial Magistrate-II,
Puducherry.

2. The District Munsif cum Judicial Magistrate
Yanam, Union Territory of Puducherry

3. The Principal Session Judge
Puducherry

4. The Station House Officer,
Grand Bazar Police Station,
Puducherry.

5. The Public Prosecutor,
Puducherry.

+1 CC to Mr.C.A.Diwakar, Advocate sr 97214

+1 CC to Public Prosecutor for Puducherry sr 97766.

Crl.O.P.No.31397 of 2019
and
Crl.M.P.No.17161 & 17162 of 2019.

VBA (CO)
SP(26/11/2019)