



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/08/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11783 of 2019

Asho Jepre Samuel

... Petitioner/Accused

Vs

State Rep.by
The Inspector of Police,
Thallakulam Police Station,
Madurai District.
Crime No.430/2019

... Respondent/Complainant

For Petitioner : M/s.G.Karuppasamy Pandiyan,
Advocate.

For Respondent : M/s.Anantha Devi,
Government Advocate (Crl.Side)

PETITION FOR MODIFICATION UNDER SECTION 439(I) (b) R/W.482 of Cr.P.C

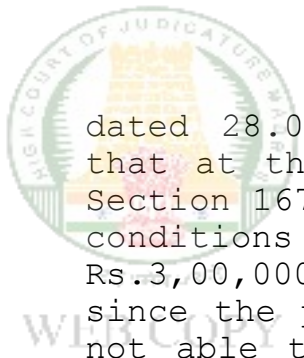
PRAYER :-

To Modify the order passed in Crl.M.P No. 1408/2019 dated 28.05.2019 on the file of the Judicial Magistrate No. 2 Madurai to deposit a Sum of Rs. 3 Lakhs and pass such further or other orders as this Honourable Court may deem fit and proper.

ORDER : The Court Made the following order :-

This petition has been filed to modify the order passed in CR.M.P.No.1408/2019 dated 28.05.2019 by the learned Judicial Magistrate No.II Madurai,directing the petitioner to deposit a sum of Rs.3,00,000/- to the credit of the crime Number 430 of 2019.

2. The learned counsel for the petitioner would submit that the respondent has arrested the petitioner and remanded to judicial custody on 12.03.2019 for the alleged offences under Sections 406,420 and 506(ii) of IPC and Section 14 of the Foreigners Act. He further submitted that since charge sheet has not been filed with the stipulated period, the learned Judicial Magistrate No.II, Madurai has granted default bail to the petitioner by the order



dated 28.05.2019 in Cr.M.P.No.1408 of 2019. He further submitted that at the time of granting default bail to the petitioner under Section 167(2) Cr.P.C the learned Magistrate has imposed one of the conditions as that the petitioner shall deposit a sum of Rs.3,00,000/- to the credit of the crime Number 430 of 2019 and since the petitioner is not able to deposit the said amount, he is not able to avail the benefit of the order passed by the learned Judicial Magistrate No.II, Madurai and he is still in custody. Therefore he prayed to modify the said condition.

3. The learned Government Advocate(Crl.Side) would submit that there are totally two accused involved in this case and the petitioner herein is A2 and both the accused have cheated the defacto complainant and misappropriated a sum of Rs.6,00,000/-. Taking into consideration of the said fact the learned Magistrate has rightly imposed a condition directing the petitioner to deposit a sum of sum of Rs.3,00,000/- to the credit of the crime Number 430 of 2019 in the said order. Hence she opposed to modify the said condition.

4.Taking into consideration of the fact that even after expiry of 78 days from the date of remand, the respondent police has not filed final report, the learned Judicial Magistrate No.II, Madurai has granted 'default bail' to the petitioner on 28.05.2019 under Section 167(2) Cr.P.C. But he has imposed a condition that the petitioner shall a sum of Rs.3,00,000/- to the credit of the crime Number 430 of 2019. Since the petitioner has been granted bail under Section 167(2) Cr.P.C for not filing final report within the stipulated period, it would not be proper to impose onerous condition directing the accused to deposit a sum of Rs.3,00,000/- to the credit of the crime Number 430 of 2019.

5. Hence the condition imposed by the learned Judicial Magistrate No.II, Madurai directing the petitioner to deposit a sum of Rs.3,00,000/- to the credit of the crime Number 430 of 2019 is alone set aside. All other conditions in the said order shall remain unaltered.

sd/-

26/08/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.II, MADURAI.



2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3. THE INSPECTOR OF POLICE,
THALLAKULAM POLICE STATION, MADURAI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.G.KARUPPASAMY PANDIYAN Advocate SR.No.14005

ORDER

IN

CRL OP(MD) No.11783 of 2019

Date :26/08/2019

MS/MMS/SAR-1/26.08.2019/3P.6C