

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

CRIMINAL PETITION No.5478 OF 2020

ORDER:

This Criminal Petition is filed under Section 482 of Cr.P.C., seeking a direction to the Judicial First Class Magistrate for Railways, Kazipet, to accept two cash sureties in compliance of the order of this Court dated 04.03.2020 in CrI.P.No.1527 of 2020.

2. The petitioner herein is accused No.1 in Crime No.121 of 2019 on the file of Railway Police Station, Kazipet. The offence alleged against the petitioner is under Section 8(c) read with Section 20(b) of NDPS Act, 1985.

3. This Court, vide order dated 07.01.2020 in CrI.P.No.8661 of 2019, granted regular bail to the petitioner on certain conditions. One of the conditions is that the petitioner shall execute a personal bond for Rs.15,000/- with two sureties for a like sum each to the satisfaction of the Court below, and out of two sureties, one surety shall be the person belongs to the native place of the petitioner. The petitioner herein has filed CrI.P.No.1577 of 2020 seeking a direction to the Court below to permit him to furnish cash sureties for a sum of Rs.15,000/- each. This Court, vide order dated 04.03.2020 in CrI.P.No.1577 of 2020, directed the Court below to enlarge the petitioner on bail on his executing a personal bond for a sum of Rs.15,000/- with one cash

surety for a like sum and other surety, who is from the native place of the petitioner, shall furnish necessary surety documents and an undertaking to secure the presence of the petitioner before the Court on each date of hearing during trial, to the satisfaction of the Court below as per the order dated 06.01.200 in CrI.P.No.8661 of 2019. Pursuant to the said order, the petitioner filed an application under Section 445 of Cr.P.C., before the Court below permitting him to furnish the said cash sureties. The learned Magistrate has returned the said application vide order dated 22.10.2020 with the following endorsement:

“As per the orders of Hon’ble High Court in CrI.P.No.1577/2020, dated 4-3-2020, the Counsel for the petitioner should comply the orders, but requesting to change the orders given by the Hon’ble High Court by receiving the cash surety from both sureties of petitioner/A-1.

Hence, this petition is not maintainable and same is returned.”

4. Thus, the Court below has returned the said application on the ground that the petitioner is asking to change the orders given by this Court.

5. Dr.Challa Srinivas Reddy learned counsel for the petitioner, would submit that the Court below is insisting the petitioner to furnish solvency certificate and not accepting the cash sureties furnished by the petitioner. The above said endorsement dated 22.10.2020 is contrary to the orders passed by this Court in the order dated 06.01.2020 and 04.03.2020 in CrI.P.Nos.8661 of 2019 and 1527 of 2020.

5. As stated above, vide order dated 04.03.2020 in CrI.P.No.1577 of 2020, this Court directed the Court below to enlarge the petitioner on bail on his executing a personal bond for Rs.15,000/- with one cash surety for a like sum and other surety, who is from the native place of the petitioner, shall furnish necessary surety documents and an undertaking to secure the presence of the petitioner. Thus, the said order contains two limbs i.e., one surety for Rs.15,000/- and the second surety is from native place of the petitioner, who shall furnish surety document and also an undertaking to secure the presence of the petitioner. There is no direction by this Court to furnish solvency certificate, etc. Therefore, insistence of the learned Magistrate that the petitioner has to furnish cash surety is contrary to the orders passed by this Court in CrI.P.No.8661 of 2019 dated 06.01.2020 and CrI.P.No.1577 of 2020 dated 04.03.2020. In view of the same, the endorsement dated 22.10.2020 of the learned Magistrate i.e., Judicial First Class Magistrate for Railways, Kazipet, is not sustainable and the same is quashed.

6. Therefore, the learned Judicial First Class Magistrate for Railways, Kazipet, is directed to accept the cash sureties furnished by the petitioner and enlarge the petitioner on execution of a personal bond for a sum of Rs.15,000/- with one surety for a like sum and other surety, who is from the native place of the petitioner/A-1, who shall furnish

necessary surety documents and an undertaking to secure the presence of the petitioner each and every date of hearing to the satisfaction of the learned Magistrate, as per the orders dated 06.01.2020 in CrI.P.No.8661 of 2020 and 04.03.2020 in CrI.P.No.1577 of 2020. The other conditions in the said orders remain unaltered.

7. Accordingly, the Criminal Petition is disposed of. Miscellaneous Petitions, pending if any, shall stand closed.

Date: 10.11.2020
TJMR

K. LAKSHMAN, J

