

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Crl.O.P.No.2767 of 2020

K.Elangovan

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Dusi Police Station,
Tiruvannamalai.
(Crime No.418 of 2019)

... Respondent

PRAYER: Criminal Original petition has been filed under Sections 439(1)(b) of the Code of Criminal Procedure, to modify the bail condition (i.e., both sureties shall be Government Employee) imposed in Crl.M.P.No.225 of 2020 dated 23.01.2020 by the learned Judicial Magistrate, Cheyyar, Tiruvannamalai District.

For Petitioner : Mr.Krishnasamy Chinnasamy
For Respondent : Mrs. S.Thankira
Government Advocate (Crl. Side)

O R D E R

This Criminal Original petition has been filed seeking for a modification of the bail condition imposed on 23.01.2020 in Crl.M.P.No.225 of 2020 by the learned Judicial Magistrate, Cheyyar, Tiruvannamalai District.

2. The learned counsel for the petitioner submitted that the petitioner was granted statutory bail vide order of the learned Judicial Magistrate, Cheyyar, Tiruvannamalai District in Crl.M.P.No.225 of 2020 dated 23.01.2020. The learned counsel for the petitioner submitted that the petitioner is a poor person, but the learned Magistrate has imposed the condition directing the petitioner to offer sureties for Rs.50,00,000/- and for two Government Servants'. The petitioner is incapable of both parts of the same conditions.

3. This Court also considers that the condition imposed by the learned Magistrate is an impossibility and the learned Magistrate has not taken into consideration the ground realities in which the parties live. The order does not indicate any

where, that the learned Magistrate had information about the financial status of the petitioner. Even if the petitioner has financial status to require Government sureties in a case involved under Section 302 IPC is next to impossible. The Hon'ble Supreme Court and this Court has repeatedly underscoring the fact that the condition imposed by the Court must be capable of being performed and onerous condition for the sake of imposing it should not be imposed.

4. Given the circumstances, this Court considers that the condition imposed by the learned Magistrate is onerous and the same is modified as follows:

''The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties, of which, one must be a blood surety and another one must be a local surety''. The other conditions imposed by the Court below shall stand as it is.

5. This Criminal Original Petition is disposed of, with the above modification.

Sd/-

Assistant Registrar(C.S.III)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Cheyyar,
Tiruvannamalai District.
2. The Chief Judicial Magistrate,
Tiruvannamalai.
3. The Inspector of Police,
Dusi Police Station,
Tiruvannamalai.
4. The Public Prosecutor,
Madras High Court.

+3ccs to Mr.C.Krishnasamy , Advocate SR.No. 13490 (18/02/2020)

AKM/12.02.2020/2P-5C /

Cr1.O.P.No.2767 of 2020