

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

CrI.OP.No.8157 of 2020

Mani @ Manigandan, aged 28 years,
S/o.Kanniyappan,
No.257, Bajanaai Koil Street,
Moranam Colony,
Vembakkam Taluk,
Tiruvannamalai District.

...Petitioner/Sole Accused

-Vs-

The State Represented by
The Sub Inspector of Police,
Moranam Police Station,
Moranam,
Tiruvannamalai District.
(Cr. No.445 of 2019)

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 29.01.2020, made in C.M.P.No.412 of 2020, passed by learned Judicial Magistrate, Cheyyar and modify the condition that "the petitioner shall execute bond for a sum of Rs.6,00,000/- with two sureties each for the like sum out of one surety shall be Government Employee," to the satisfaction of the learned Judicial Magistrate, Cheyyar, in C.M.P.No.5245 of 2019 on 26.12.2019.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr.Karthikeyan Swaminathan
Additional Public Prosecutor

O R D E R

The petitioner/accused in Crime No.445 of 2019 for the offences punishable under Section 392 @ 397 of IPC. The petitioner was arrested on 20.09.2019.

2.The petitioner was granted bail by the learned Judicial Magistrate, Cheyyar, in CrI.M.P.No.5245 of 2019 dated 26.12.2019 for the offences punishable under Section 167 (2) Cr.P.C, while granting the bail, the following conditions were imposed:

- (i)The petitioner shall execute a bond for a sum of Rs.6,00,000/- (Rupees Six Lakhs only) with two sureties

each for the like sum. Out of sureties one surety shall be "Government Employee".

(ii) The petitioner shall appear before the respondent police daily at 10.00 a.m., until further order.

(iii) The petitioner shall appear before this Court on receipt of summons from this Court and shall appear before the Hon'ble Sessions Court after committal without fail. Though, the petitioner was granted bail on 26.12.2019, the petitioner was unable to execute sureties since the conditions were onerous and hence, he moved Crl.M.P.No.412 of 2020 before the learned Judicial Magistrate, Cheyyar. The learned Judicial Magistrate, Cheyyar, vide order dated 28.01.2020 had dismissed the Modification Petition and confirming the earlier order passed in Crl.M.P.No.5245 of 2019 dated 26.12.2019.

3.The contention of the petitioner is that though the petitioner was granted bail even during December-2012, the petitioner is unable to come out due to the onerous condition imposed in the bail order. Further, relied upon the citation of the Hon'ble Apex Court as well as this Court, wherein it has been stated that the condition imposed on statutory bail should not be onerous, thereby indirectly denying the petitioner in the benefit of bail. The petitioner is an uneducated person and the conditions imposed against him are onerous. Hence, he sought for Modification.

4.The learned Additional Public Prosecutor submitted that the petitioner is involved in the offence punishable under Sections 392 @ 397 of IPC. The petitioner has got nine previous cases and he has got a record from the year 2010 and he has been continuing his activities till the year 2019 after the arrest. Considering these factors, the lower Court had imposed such condition. Hence, the conditions need not be modified.

5.Considering the submissions and materials available on record, it is seen that the petitioner has been granted bail in the year December-2019 and for the past six months, he is unable to execute sureties and he is still in confinement. In view of the same, this Court is inclined to modify the condition and at the same time, with a binding in view of the same, the conditions are modified as follows:

6.The petitioner's father has got some property and in which he has been carrying on agriculture activities.

(i) In view of the same, the petitioner is to execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for like sum out of which one surety will be

the father of the petitioner and the other would be a relative.

(ii) Further, property document to the value of Rs.1,00,000/- (Rupees One Lakh only) original to be produced at the time of executing sureties. After verification, the originals are to be returned to the sureties. Thereafter, the petitioner to appear before the respondent police daily at 10.00 a.m., till the charge sheet is filed in this Court.

7.Taking into consideration about the prevailing situation and the lock down of this Court, the petitioner shall execute a bond for a sum of Rs.1,00,000/- before the Superintendent of police which is confined thereafter to execute the sureties has stated above within the 15 days from the date of lifting of the lock down and commencement of the normal functioning of the Court.

8.With the above modification, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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

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CA (CO)
RV (04/09/2020)