

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8677 of 2020

and

Crl.M.P.No.1267 of 2020

Aburar

... Petitioner

/Vs/

State rep by

The Inspector of Police,
Esplanade Police Station,
Chennai.

(Crime No.226 of 2019)

... Respondent

Prayer: Criminal Original Petition filed under section 439(1)(b) of Cr.P.C., to modify the condition imposed on the petitioner/accused shall execute a bond for a sum of Rs.25,000/- with two sureties one being a blood relative for said like sum to the satisfaction of Hon'ble Principal Special Judge for EC & NDPS Court, Chennai, in Crl.M.P.No.1267 of 2020 vide order dated 20.03.2020.

For Petitioner : Mr.R.Rafi Babu

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

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ORDER

This petition has been filed by the petitioner to modify the condition imposed by the learned Principal Special Judge for EC & NDPS Court, Chennai, vide order dated 20.03.2020 in CrI.M.P.No.1267 of 2020.

2. The petitioner/accused in Crime No.226 of 2019 for an offence under Sections 8(C), 22(C), 25, 27A and 29(1) of the NDPS Act and was arrested on 20.09.2019. The learned Principal Special Judge for EC & NDPS Court, Chennai granted bail to the petitioner/accused in CrI.M.P.No.1267 of 2020 by order dated 20.03.2020. While granting the bail, the accused/petitioner execute bond for a sum of Rs.25,000/- with two sureties one being a blood relative for the satisfaction of the Court.

3. The contention of the learned counsel for the petitioner is that due to the present Covid-19 pandemic situation, the petitioner/accused is unable to furnish sureties before the learned Principal Special Judge for EC & NDPS Court, Chennai. He further submitted that due to the unprecedented circumstances and Covid-19 spread of pandemic, the

Courts have been lock down and only with skeleton staff and limited work proceedings are conducted through video conferencing, in such situation, the petitioner is unable to execute sureties before the concerned Court. In view of the non-execution of the sureties, though the petitioner was granted bail on 20.03.2020, he is still in confinement.

4. Considering the said submission and taking into consideration, the present prevailing situation and the circumstances, this Court is inclined to modify the conditions as follows:

(a) the petitioner shall execute their own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner should appear before the respondent police daily till he executes sureties before the concerned Court.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***;

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

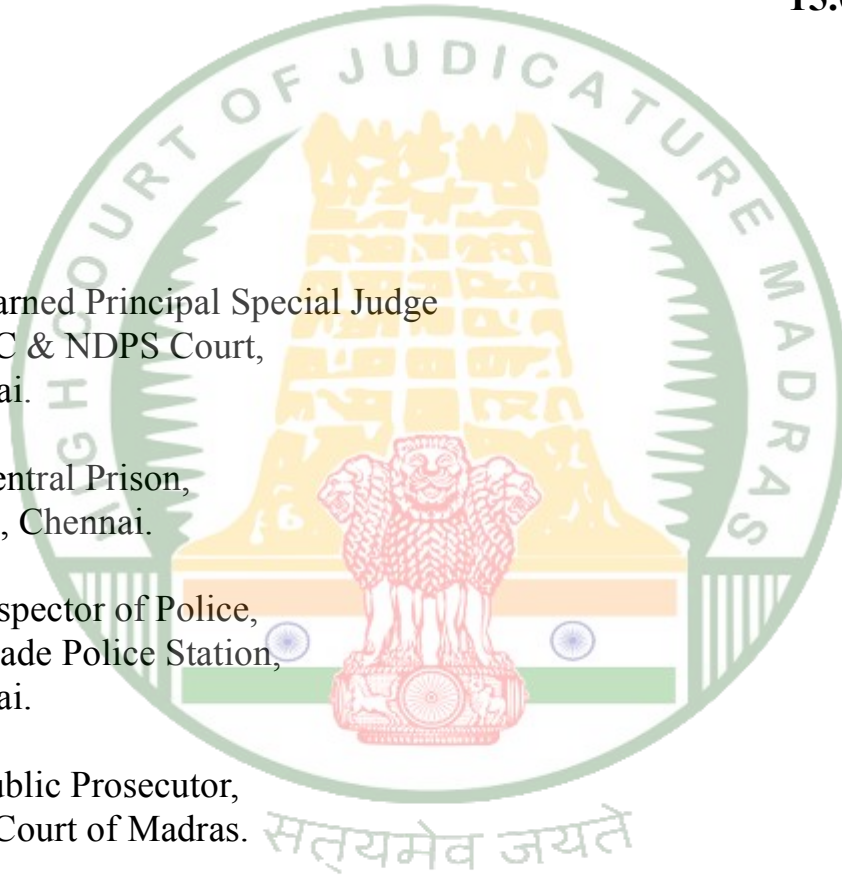
5. With the above directions, this Criminal Original Petition is ordered.

15.06.2020

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To

1. The learned Principal Special Judge
for EC & NDPS Court,
Chennai.
2. The Central Prison,
Puzhal, Chennai.
3. The Inspector of Police,
Esplanade Police Station,
Chennai.
4. The Public Prosecutor,
High Court of Madras.

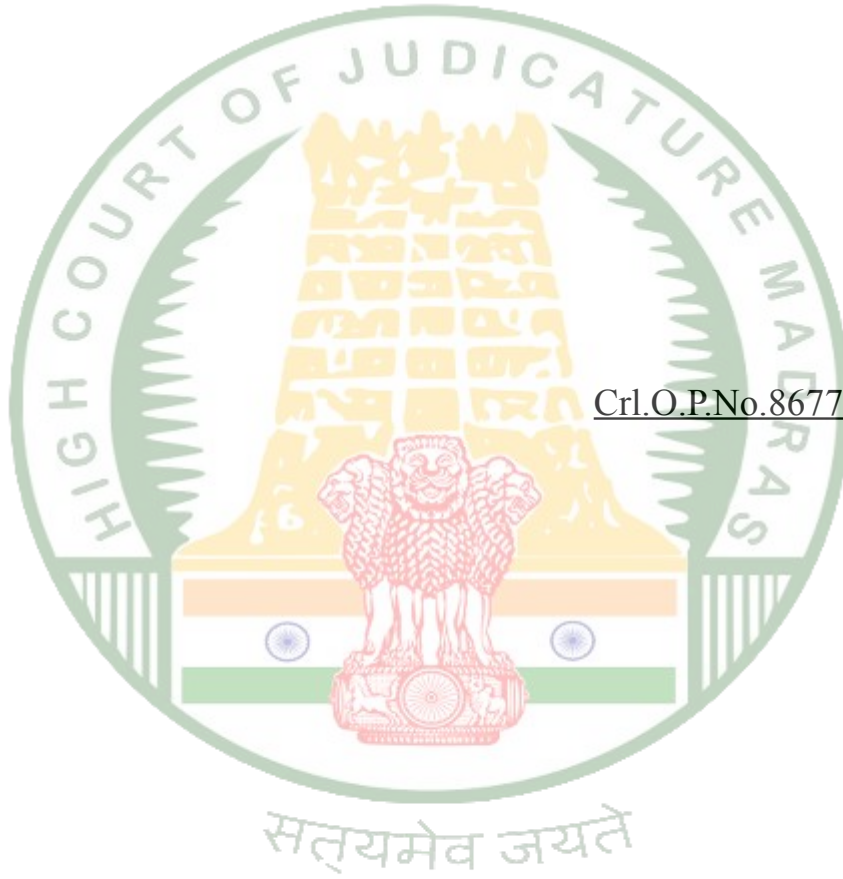


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M.NIRMAL KUMAR,J.

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