

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.10230 of 2020

Saravanan

...Petitioner

Vs

State Rep by
Inspector of Police,
District Crime Branch Police Station,
Dharmapuri District.
(Crime No.03/2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order passed by the Principal Sessions Judge, Dharmapuri in C.M.P.No.701 of 2020 dated 22.06.2020 and consequently to modify the conditional order imposed in C.M.P.No.22 of 2020 dated 22.05.2020 on the file of the Judicial Magistrate No.II, Dharmapuri.

For Petitioner : Mr.V.Sakkarapani

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed to set aside the order passed by the Principal Sessions Judge, Dharmapuri in C.M.P.No.701 of 2020 dated 22.06.2020 and consequently to modify the conditional order imposed in C.M.P.No.22 of 2020 dated 22.05.2020 on the file of the Judicial Magistrate No.II, Dharmapuri.

2. The learned counsel for the petitioner would submit that the respondent police registered a case against the petitioner for the alleged offence under Sections 420, 465 and 468 of IPC in Crime No.03 of 2020 on 21.03.2020 and on the same day the petitioner was arrested and remanded to judicial custody and thereafter, the petitioner was moved a bail petition under Section 167(2)(ii) of Cr.P.C in C.M.P.No.22 of 2020 before the Judicial Magistrate No.II, Dharmapuri and the same was ordered

with certain conditions on 22.05.2020 as follows:-

"(i) the petitioner is directed to deposit a title deed to this Court for a value of Rs.20,00,000/- which the property belongs to him or his relatives along with a notary affidavit with photos and identification proof.

(ii) the petitioner is directed to execute a bond of Rs.10,000/- with two sureties one surety being a blood relative of the petitioner.

(iii) the petitioner shall not tamper with the evidence or witness either during investigation or trial.

(iv) direct the petitioner to co-operate with the investigation.

Thereafter, the petitioner filed a petition under Section 439 (1) (b) of Cr.P.C before the Principal Sessions Judge, Dharmapuri in C.M.P.No.701 of 2020 to set aside the condition imposed by the learned Judicial Magistrate No.II, Dharmapuri in C.M.P.No.22 of 2020 dated 22.05.2020 and the same was also dismissed by the learned Principal Sessions Judge, Dharmapuri on 22.06.2020. Therefore, he sought to set aside the order passed by the Principal Sessions Judge, Dharmapuri and consequently to modify the conditional order imposed by the learned Judicial Magistrate No.II, Dharmapuri.

3. The learned Additional Public Prosecutor would submit that the petitioner involved in a huge and grave crime. Therefore, he sought for dismissal of this petition.

4. It is seen from the records that the petitioner was arrested and remanded to judicial custody on 22.05.2020. Subsequently, petitioner moved a bail petition under Section 167(2)(ii) of Cr.P.C in C.M.P.No.22 of 2020 before the Judicial Magistrate No.II, Dharmapuri, which was allowed. Thereafter, the petitioner filed a petition under Section 439 (1) (b) of Cr.P.C before the Principal Sessions Judge, Dharmapuri in C.M.P.No.701 of 2020 to set aside the condition imposed by the learned Judicial Magistrate No.II, Dharmapuri in C.M.P.No.22 of 2020 dated 22.05.2020 and the same was dismissed. The respondent has not laid the charge sheet in this case. Therefore, he is entitled for the statutory bail under Section 167(2) Cr.P.C. Therefore, the learned Judicial Magistrate No.II, Dharmapuri granted bail and released the petitioner on condition that the petitioner is directed to deposit a title deed to this Court for

a value of Rs.20,00,000/- which the property is belong to him or is relatives along with a notary affidavit with photos and identification proof. Section 167(2) Cr.P.C reads as follows:-

"167(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction: Provided that-

(a) ¹ the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days; if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding,-

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;]

(b) no Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) no Magistrate of the second class, not

especially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.¹ Explanation I.- For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the accused shall be detained in custody so long as he does not furnish bail;].² Explanation II.- If any question arises whether an accused person was produced before the Magistrate as required under paragraph (b), the production of the accused person may be proved by his signature on the order authorising detention.]”

5. It is the right of the accused for statutory bail for non filing of the charge sheet by the respondent police. Therefore, the said right cannot be extinguished by imposing conditions.

6. In view of the above discussions, this Court is inclined to set aside the order passed by the learned Principal Sessions Judge, Dharmapuri in C.M.P.No.701 of 2020 dated 22.06.2020 and consequently to modify the condition No.(i) imposed by the learned Judicial Magistrate No.II, Dharmapuri. Accordingly, the condition (i) of the order dated 22.05.2020 on the file of the learned Judicial Magistrate No.II, Dharmapuri in C.M.P.No.22 of 2020 stands deleted. The other conditions shall remain intact.

7. This Criminal Original Petition is ordered accordingly.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

- 1.The Principal Sessions Judge,
Dharmapuri
- 2.The Inspector of Police,
District Crime Branch Police Station,
Dharmapuri District.

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3.The Judicial Magistrate No.II,
Dharmapuri.

4.The Public Prosecutor,
High Court,
Madras.

5.The Superintendent,
Central Prison,
Salem.

CRL.O.P.No.10230 of 2020

RSV (CO)
RN (22/07/2020)



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