

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. M.P. NOS. 4911 & 4912 OF 2020

AND

CRL. O.P. NO. 2356 OF 2020

1. Purushothaman
2. Nagendran

.. Petitioners

- Vs -

State rep. By its
Inspector of Police
Baluchettichatram Police Station
Kancheepuram District.

.. Respondent

Crl. M.P. No.4911 of 2020 filed u/s 482 of the Criminal Procedure Code praying this Court to modify the deposit condition and surrender condition passed in Crl. O.P. No.2356 of 2020 dated 14.2.2020.

Crl. M.P. No.4912 of 2020 filed u/s 482 of the Criminal Procedure Code praying this Court to extend the time to execute the surety by four weeks passed in Crl. O.P. No.2356 of 2020 dated 14.2.2020.

For Petitioners : Mr. P.P.Shanmugasundaram

For Respondent : Ms. T.P.Savitha, GA (Crl. Side)

ORDER

The present miscellaneous petitions have been filed by the petitioners praying this Court to modify the condition relating to deposit of amount and condition relating to surrender and also to extend the time for execution of sureties.

2. The petitioners have been charged for offences u/s 4 (1), 4 (1) (A), 36 (A), 23 (C) and 21 (1) of the Mines & Minerals (Development Regulation) Act. It is submitted that in the petition filed by the petitioners for anticipatory bail, this Court, granted anticipatory bail on condition of deposit of Rs.90,000/- for six months in respect of the lorries from which M-Sand was seized. It is

the submission of the petitioners that in respect of similar offences, this Court has directed deposit of Rs.6,000/- per unit of sand, while in the present case, the petitioners have been directed to pay Rs.15,000/- per unit. It is the further submission of the learned counsel that in the present situation, the petitioners find it difficult to mobilise the said amount and, therefore, prays that this Court may consider the case leniently and reduce the deposit amount. It is further pleaded by the learned counsel for the petitioners that since the functioning of the subordinate courts are restricted in the present pandemic situation, this Court may consider altering the surrender condition before the court below and instead for the execution of the sureties, the petitioners may be permitted to surrender before the concerned police station and execute the sureties. Further, learned counsel also pleaded that this Court may extend the time by another four weeks to execute the sureties.

3. On the above submissions, this Court heard the learned Government Advocate (Crl. Side), who inter alia submitted that this Court has been uniformly ordering deposit of Rs.15,000/- per unit and the act of the petitioners are grave, the said condition may not be altered with. However, insofar as modification relating to surrendering before the police station and extension of time for executing the sureties, learned Government Advocate has no serious objection.

4. While granting anticipatory bail, this Court had directed non-refundable deposit of Rs.90,000/- in all, towards the six units of M-Sand seized by the police authorities, considering the nature and gravity of the offence. Further, it is to be pointed out that this Court has been uniformly adopting the stand of directing payment of non-refundable deposit of Rs.15,000/- per unit for seizure of this nature. Therefore, in such circumstances, this Court is not inclined to dilute its stand to the benefit of the petitioners, as such dilution in the deposit condition will send a wrong signal to the offenders of similar crime. Therefore, this Court is unable to accede to the request of the petitioners for modifying the condition relating to payment of non-refundable deposit. Accordingly, the said prayer of the petitioners is rejected.

5. However, insofar as the plea of the petitioners that they may be permitted to surrender before the concerned police station and execute sureties, this Court, in the light of the present pandemic situation, keeping in mind the fact that the courts are functioning virtually and it would not be in the interest of either of the parties, is of the considered view that the said plea of the petitioners could be acceded to. Accordingly, the condition relating to surrender before the court below is modified and the petitioners are permitted to surrender before the respondent police and execute the sureties and the respondent police are directed to entertain the surrender of the petitioners and execution of sureties.

6. In view of the modification made above, the petition in Crl. M.P. No.4912 of 2020 praying for extension of time by four weeks for the petitioners to execute the sureties is ordered as prayed for.

7. Accordingly, Crl. M.P. No.4911/2020 is disposed of in the terms noted above. Crl. M.P. No.4912 of 2020 for extension of time by four weeks for execution of the sureties, is ordered as prayed for. Except for the above modification, all other conditions as imposed in Crl. O.P. No.2356 of 2020 shall stand unaltered.

-sd/-
28/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, KANCHIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
BALUCHETTYCHATRAM POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE OFFICER INCHARGE
DISTRICT MINERAL FOUNDATION TRUST,
KANCHIPURAM.

+2C.C. to M/S. P.P.SHANMUGASUNDARAM Advocate on payment of
necessary charges SR.Nos.6088 & 6089

Order

in
CRL MPs.4911 & 4912/2020

in
CRL OP.2356/2020

Date :28/08/2020

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CS 18/09/2020