

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.20240 of 2020

1.Akshaya Aswanthy

2.Semba Viswalingam

... Petitioners

Versus

State represented by,
The Inspector of Police,
CCB Police, EDF - II,
Team-III, Chennai.
(Crime No.125 of 2020)

... Respondent

Criminal Miscellaneous Petition is filed under Section 439(1) of the Criminal Procedure Code, pleaded to modify the condition imposed on the petitioners by the order dated 01.12.2020 passed by the learned Principal Sessions Judge at Chennai in Crl.Mp.No.11560 of 2020.

For Petitioners

: Mr.P.Rajkumar

For Respondent

: Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

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ORDER
(The case has been heard through video conference)

This petition has been filed to modify the condition imposed on the petitioners by the order dated 01.12.2020 passed by the learned Principal Sessions Judge at Chennai in Crl.Mp.No.11560 of 2020.

2.The learned counsel for the petitioner would submit that the petitioners are respectively daughter and father, they were falsely implicated in this case in Crime No.125 of 2020, registered by the respondent/police for the offence under Sections 465, 467, 468, 420, 471 of IPC., on the allegation that on the false promise of obtaining a seat in the Harvard University in the US, and they received a sum of Rs.58 lakhs from the defacto complainant. The petitioners were arrested by the respondent police and remanded under judicial custody on 09.09.2020. Further, he would submit that the petitioners filed an application for bail before the learned Principal Sessions Judge, Chennai in Crl.Mp.No.11560 of 2020. The learned Judge passed an order on 01.12.2020, granted bail to the petitioners, with a condition to deposit a sum of Rs.10,00,000/- each, to the credit of Crime No.125 of 2020. The final order in respect of the amount will be passed at the end of criminal proceedings by the Trial

3.The learned counsel submitted that in respect of the bail granted to the petitioners on 01.12.2020, the petitioners were unable to pay the said amount. The petitioners also made their submission before the Court about the inability to deposit the amount whereas, the learned judge has passed an onerous condition by directing the petitioners to deposit Rs.10 lakhs each to the credit of the above said crime number.

4.Due to the bail granted to the petitioners on 01.12.2020 by imposing the onerous conditions, the petitioners are unable to come out on bail. The learned counsel has further submitted that the condition is onerous and the petitioners without prejudice to their contention and defense, are now prepared to deposit a sum of Rs.4,00,000/- (Rupees Four Lakhs only) each to the credit of Crime No.125 of 2020. He would also submit that the said amount may be permitted to be paid in two installments by the petitioners and thereby the petitioners are prepared to deposit the said amount by two installments, a sum of Rs.2 lakhs each at the time of furnishing sureties and the further balance amount of Rs.2 lakhs each would be paid within a period of four weeks from the date of coming out on bail. Hence, he prays to allow the petition.

5.The learned Additional Public Prosecutor would vehemently oppose by stating that the petitioners had on the false promise of obtaining a seat in the Harvard University induced and cheated the defacto complainant to the tune of Rs.58 lakhs. He would further submit that no money has been recovered from the accused so far. In respect of the co-accused, bail was granted with the condition to deposit a sum of Rs.5 lakhs, and in that case, the conditions have also complied with by the co-accused. Hence, he vehemently opposed granting bail to the petitioners.

6.Heard both sides and perused the materials on record.

7. The petitioners have been arrested on 08.09.2020 and granted bail with a direction to deposit a sum of Rs.10 lakhs each to the credit of Crime No.125 of 2020. However, the petitioners were unable to arrange the amount at the said time. The learned counsel submitted that the petitioners were even prepared to come out on statutory bail, whereas the learned trial judge did not allow the petitioners to withdraw the petition. Further, he submitted the statutory periods has also been completed and the petitioners were in custody more than 101 days and the respondent police have also not filed any final report.

8.Taking into consideration the facts of the submissions made by the learned counsel for the petitioners and considering the fact that the petitioner is in judicial custody from 08.09.2020 and unable to come out from the prison, despite bail granted to them on 01.12.2020, hence, this Court is inclined to modify the condition in Para No.6(a) passed in Crl.Mp.No.11560 of 2020 and the said condition is modified to the effect that the petitioners are directed to deposit a sum of Rs.4,00,000/-(Rupees Four Lakhs only) each to the credit of Crime No.125 of 2020 out of which a sum of Rs.2,00,000/- (Rupees Two Lakhs only) each, shall be paid by the petitioners at the time of furnishing sureties and on receipt of such payment, the petitioners shall be released on bail. The further amount of Rs.2,00,000/- (Rupees Two Lakhs only) each, will be paid by the petitioners, within a period of four weeks from the date of coming out on bail, failing which the bail granted to the petitioners shall stand dismissed automatically. The other conditions shall remain intact.

9.The learned Metropolitan Magistrate for an exclusive trial of CCB and CBCID cases, Chennai, shall deposit the said amounts as Fixed Deposit with the Government Bank, and the final order in respect of the amount will be passed at the time of deciding the criminal proceedings by the trial Court.

10.Accordingly, this Criminal Original Petition is ordered.

18.12.2020

Internet: Yes
Index: Yes/No

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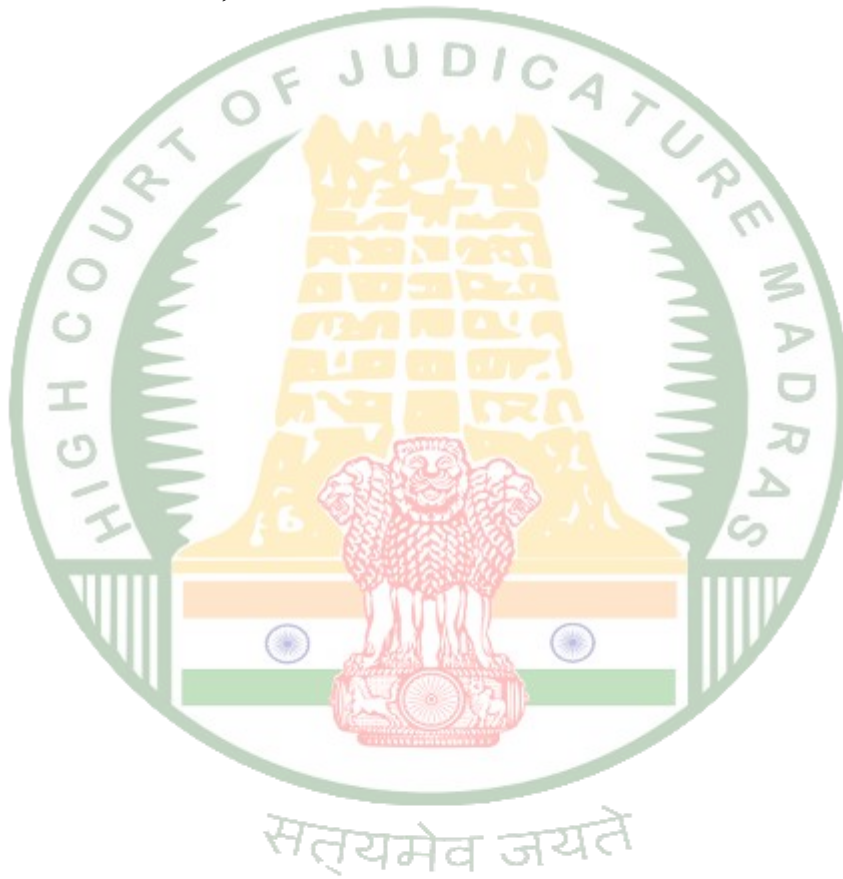
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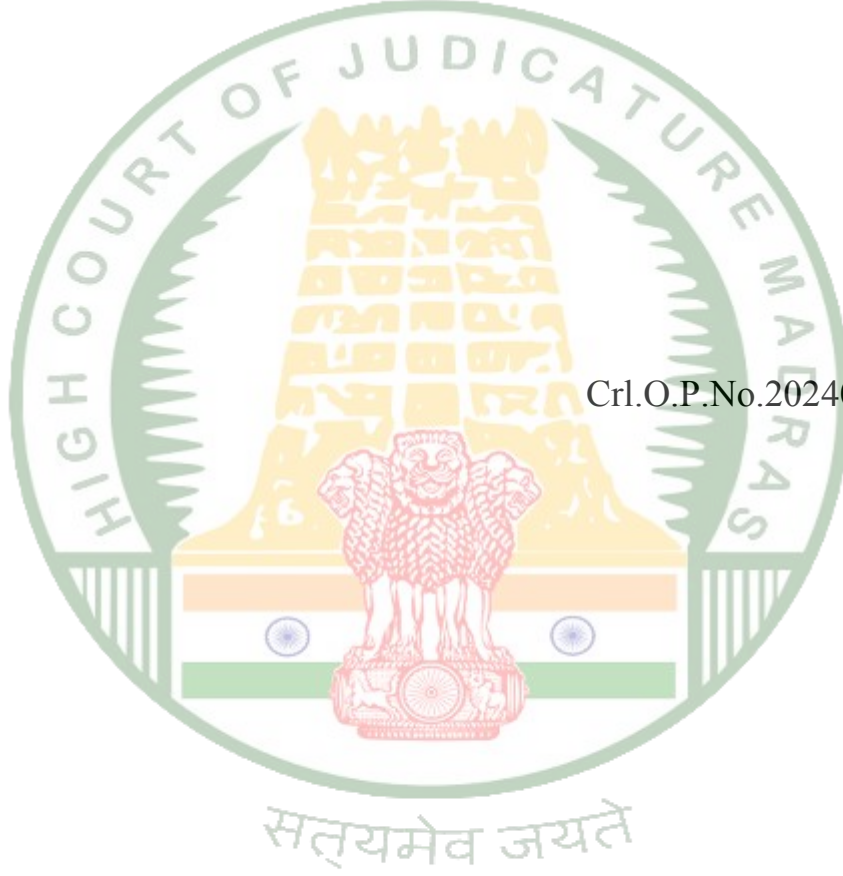
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High Court of Madras, Chennai.



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A.D.JAGADISH CHANDIRA, J.

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