



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 07/05/2020

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PRESENT

The Hon'ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) . No.4962 of 2020

Saravanan

... Petitioner/ Petitioner/
Sole Accused

Vs

State through
The Inspector of Police,
District Crime Branch, Nagercoil,
Kanyakumari District
Crime No.31/2019.

... Respondent/Respondent/
Complainant

For Petitioner : Mr.S.Muthalraj,
Advocate.

For Respondent : Mr.S.Chandra Sekar,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

To set aside the condition no.2 and 3 in Cr.M.P.No.970/2020 on the file of the Judicial Magistrate No.I, Nagercoil, Kanyakumari District and consequently accept the sureties executed by the petitioner and order to release the petitioner on bail.

ORDER : The Court made the following order :-

The petitioner herein was arrested by the respondent police on 31.01.2020 for the alleged offence under Section 420 IPC in Crime No.31 of 2019. According to the complainant, the petitioner has purchased pharmaceutical drugs from Arasan Medicals Agencies at Nagercoil for a sum of Rs.15,67,338/- but he has not paid the money, thereby cheated. The investigation has disclosed the fact that the petitioner has cheated several other pharmaceutical companies and total amount cheated by the petitioner is around Rs.33,23,073/-. After arrest, the petitioner has approached the learned Judicial Magistrate No.I, Nagercoil for bail under Section 437 Cr.P.C. Considering the gravity of the crime and on the undertaking given by



the petitioner's wife before the Court that she will deposit a sum of Rs.7,00,000/- and the balance amount will be paid on or before 06.04.2020, the trial Court has granted bail to the petitioner on 03.02.2020 on the following conditions:-

"(i) The petitioner shall execute a bond for a sum of Rs.10,000/- and two sureties for likesum;

(ii) Out of the cheated amount of Rs.15,67,338/-, a sum of Rs.7,00,000/- should be deposited in the crime number;

(iii) The balance amount of Rs.8,67,338/- should be deposited on or before 06.04.2020;

(iv) The petitioner / accused shall report before the Court on every Monday at 10.30 a.m., until further orders."

2. The petitioner herein has approached this Court to modify the bail condition Nos.2 and 3 referred to above on the ground that the bail conditions are onerous and the petitioner is not in a position to bear such huge amount within a period stipulated and therefore, the said two conditions have to be relaxed.

3. The learned counsel appearing for the petitioner would submit that there was a business transaction between the petitioner and the defacto complainant. The default in payment will attract only civil consequences. However, the criminal complaint has been registered and the petitioner was arrested. Since the conditions imposed by the trial Court are onerous, the petitioner is unable to comply the same. As a result, he is in prison since 31.01.2020.

4. The learned Additional Public Prosecutor appearing for the State would submit that the bail condition Nos.2 and 3 were imposed pursuant to the undertaking given by the wife of the petitioner and had she not given the said undertaking, the Magistrate could have passed a different order. Having given the undertaking before the trial Court, the petitioner cannot contend that the condition imposed based on their own undertaking is onerous.

5. Further, the learned Additional Public Prosecutor for the State would submit that after arrest of the petitioner in Crime No.31 of 2019, the respondent police has registered some other complaints, which are similar in nature and if the condition imposed by the trial Court is modified or relaxed, it will be difficult for the respondent to complete the investigation.

6. A perusal of the records reveal that the petitioner immediately after his arrest on 31.01.2020, has approached the

<https://hcservices.ecourts.gov.in/hcservices/>



Magistrate for bail within four days and the bail was granted pursuant to the undertaking given by the wife of the petitioner that the amount alleged to have cheated will be repaid in two installments. After grant of bail, the petitioner has approached this Court for modification of the bail conditions. If really, there was a difficult in mobilizing the money as per their undertaking given to the Court, the petitioner would have approached the trial Court itself. Instead he has approached this Court as if the conditions were imposed by the Court on its own. Hence, this Court grants liberty to the petitioner herein to approach the Magistrate Court for any modification and if any modification is required, the same may be considered by the Magistrate.

7. Accordingly, this Criminal Original Petition for modification stands disposed of.

sd/-
07/05/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE No.I
NAGERCOIL,
KANYAKUMARI DISTRICT.
2. DO THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
NAGERCOIL,
KANYAKUMARI DISTRICT.
3. THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
NAGERCOIL,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.4962 of 2020
Date :07/05/2020

MYR

<https://hccs.copd.go.in/Reserve/> 08.05.2020/ 3P/5C