

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NOS.9915 & 9889 OF 2021

Rajkumar @ Subbu

...Petitioner in both Crl.O.Ps

Versus

The Inspector of Police,
Palladam Police Station,
Tiruppur District.

(Crime Nos.295 of 2020 & 1295 of 2019)

..Respondent in both Crl.O.Ps

PRAYER: Criminal Original Petition has been filed under Section 439 (1) (b) of Cr.P.C, praying to modify the conditional order passed in Crl.M.P.No.1064 of 2020 dated 14.08.2020 on the file of the learned Judicial Magistrate, Palladam in Crime No.295 of 2020 on the file of the respondent.

PRAYER: Criminal Original Petition has been filed under Section 439 (1) (b) of Cr.P.C, praying to modify the conditional order passed in Crl.M.P.No.1065 of 2020 dated 14.08.2020 on the file of the learned Judicial Magistrate, Palladam in Crime No.1295 of 2019 on the file of the respondent.

For Petitioner (in both Crl.O.Ps) : Mr.D.Gopikrishnan

For Respondent(in both Crl.O.Ps) : Mr.E.Raj Thilak

Counsel for Government
of Tamil Nadu (Crl side)

ORDER

This Petitions are filed, seeking to modify the conditional order imposed in Crl.M.P.Nos.1064 & 1065 of 2020 dated 14.08.2020 on the file of the learned Judicial Magistrate, Palladam in Cr.Nos.1295 of 2019 & 295 of 2020 respectively on the file of the respondent.

2. The learned counsel for the petitioner would submit that by order dated 14.08.2020 in Crl.M.P.Nos.1064 & 1065 of 2020, the learned Judicial Magistrate, Palladam, while granting bail to the accused/petitioner herein, has imposed the following conditions:

(i)the petitioner shall furnish two sureties and each shall execute a bond for a sum of Rs.1,00,000/-

(b) Sureties must be from the same District where the petitioner belonging to,

(c) Sureties shall furnish immovable property documents which shall stand in the name of the sureties along with tax receipt and encumbrance certificate which duly attested by the Thasildar,

(d) The petitioner shall appear before the respondent police daily at 10 a.m. until further orders.

3. According to the petitioner, he finds it impossible to comply with the conditions that to in the present Pandemic period. Since the petitioner is unable to comply the order by producing sureties having immovable property for a value of Rs.1,00,000/- and the other condition that the surety being from the same District and also to produce the tax receipt and encumbrance certificate which are duly attested by the Thasildar. Due to non-compliance of the conditional order, the petitioner is unable to come out on bail for nearly 10 months despite he was granted bail.

4. In view of the major submission of the learned counsel for the petitioner and that the Pandemic condition has turned the sustaining of normal living conditions with great difficulty wherein, a common man finds difficult to eke out his livelihood, though the petitioner has been granted bail in August 2020 till date, he has been in jail due to non compliance of surety condition, which is onerous one. Hence, this Court is inclined to modify the conditional order passed by the learned Judicial Magistrate, Palladam.

5. In view of the above and also considering the period of incarceration suffered by the petitioner and the present COVID-19 pandemic situation, this Court is inclined to modify the conditional order passed by the learned Judicial Magistrate, Palladam, subject to the following conditions:

(a) There shall be common sureties for both cases in Crime no.1295 of 2019 and Crime no.295 of 2020.

(b) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the Central Prison, Coimbatore, 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 learned learned Judicial Magistrate, Palladam, 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;

(d) 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;

(e) On release, the petitioner shall report before the Inspector of Police, Palladam Police Station, Tiruppur District every Monday at 10.30 a.m., till the charge sheet is filed in these cases.

6. With the above, this petition is disposed of.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Palladam Police Station,
Tiruppur District.
(Crime No.295 of 2020)

2.The Public Prosecutor,
High Court, Madras.

Copy to

1.The Judicial Magistrate,
Palladam.

2.The Superintendent of the Central Prison,
Coimbatore.

Cr1.O.P.No.9915 of 2021

BS (CO)
KKV/15/06/2021

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