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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P. No.11871 of 2021

Balu @ Balamurugan

... Petitioner/Accused

Versus

The State Rep. by
The Inspector of Police,
Magudanchavadi Police Station,
Sankari,
Salem District.

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the 1st condition that executing a bond or a sum of Rs.10,000/- with two sureties, of whom, one should be a blood related surety, imposed on the petitioner by the Hon'ble Judicial Magistrate Court No.II, Sankari, Salem District in Crl.M.P. No.964 of 2020 order dated 07.01.2021 in Crime No.519 of 2020.

For Petitioner : Mr. D.Arun

For Respondent : Mr. A.Damodaran
Counsel for Govt. of Tamil Nadu
(Criminal Side)

O R D E R

This Criminal Original Petition has been filed seeking to modify the 1st condition that executing a bond or a sum of Rs.10,000/- with two sureties, of whom, one should be a blood related surety, imposed on the petitioner by the Hon'ble Judicial Magistrate Court No.II, Sankari, Salem District in Crl.M.P. No.964 of 2020 dated 07.01.2021 in Crime No.519 of 2020.

2. The petitioner A2 in Cr. No.519 of 220 involved in offences punishable under Section 457 & 380 IPC was arrested by the respondent Police on 05.12.2020. A bail application was



filed by the petitioner along with A3 to A5. Thereafter bail was granted by the Judicial Magistrate II, Sankari, Salem District in CrI.M.P. No.964 of 2020 on 07.01.2021. The other three accused, already executed sureties and complied the orders of Judicial Magistrate II have now come out on bail. The petitioner is unable to comply with the condition more specifically, the first condition that the sureties to be blood related surety and further to produce property and solvency certificate obtained from Tahsildar.

3. The contention of the petitioner is that the petitioner has got only one property and that too stands in the name of the petitioner and hence it cannot be given as surety. The petitioner residing with his wife and school going son in the said property. Since none of his blood relative own any property, the surety could not be executed by the petitioner. Due to non-execution of surety, the petitioner, though was granted bail on 07.01.2021, for the past six months he is in prison. The condition is an onerous one and hence he seeks modification.

4. Learned Counsel for Govt. of Tamil Nadu (CrI.Side) submitted that the respondent Police is on a apprehension that if the petitioner is let out on bail without proper surety he would abscond. He further submitted that investigation is completed and charge sheet filed before the concerned Court and is yet to be taken on file.

5. Considering the submissions and perusing the materials, it is seen that the petitioner though granted bail on 07.01.2021 by the lower Court, for the past six months he is unable to execute sureties and come out on bail since one of the condition is onerous. Apart from this case, the petitioner has no previous case. The petitioner is residing with his wife and son. Considering the same, this Court is inclined to modify the condition to effect that the petitioner is directed to execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate Court No.II. Thereafter the petitioner to appear before the respondent Police on every Monday and Friday at 06.00 p.m. till the conclusion of trial in the case. The other conditions imposed by the Court below shall stand as it is. The petitioner for the present to execute Bond for Rs.10,000/- before the Superintendent of Prison in which he is confined. Thereafter, to execute Bond and Surety before the concerned Magistrate, within 15 days of commencement of normal functioning of Courts.



6. This Criminal Original Petition is disposed of by modifying the order of the Court below to the extent indicated herein above.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court No.II,
Sankari, Salem District
2. The Inspector of Police,
Magudanchavadi Police Station,
Sankari,
Salem District.
3. Superintendent of Central Prison,
Salem.
4. The Public Prosecutor,
High Court, Madras.

CRL. O.P. No.11871 of 2021

SRA(CO)
CT(27/07/2021)