

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.19150 of 2020

Madhan

..Petitioner

.Vs.

State rep.by
The Inspector of Police,
Muthapudupet Police Station,
Thiruvallur District.
(Crime No.403 of 2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, call for the records in the order dated 15.10.2020 passed by the learned Judicial Magistrate, Ambattur in CMP No.1740/2020 and set aside the same as illegal, arbitrary and illegal.

For Petitioner : Mr.M.Mohamed Riyas

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed against the order passed by the Court below dt.15.10.2020, issuing non bailable warrant against the petitioner for arresting and remanding him to judicial custody.

2.The respondent Police registered an FIR in Crime No.403/2020 and during the course of investigation, the petitioner was arrested and remanded to judicial custody on 27.07.2020. The petitioner along with another accused person approached this Court and filed a bail petition in Crl.OP.No.13800/2020. This Court by an order dated 09.09.2020, granted bail to the petitioner by imposing certain conditions. For the purpose of this case, it will be relevant to extract condition (b) hereunder:

(b) the petitioners shall within a
period of two weeks from the date of
<https://hcservices.ecourts.gov.in/hcservices/>

commencement of the Court's normal functioning, execute two sureties for a sum of Rs.10,000/- (rupees ten thousand only) each, for a like sum to the satisfaction of the learned Judicial Magistrate, Ambattur, failing which, the bail granted by this Court shall stand dismissed automatically;

3.The petitioner was enlarged on bail. As per the above condition, the petitioner must have furnished two sureties within a period of two weeks from the date of the normal functioning of the Court. The order passed by the Court below shows that the normal functioning resumed on 28.09.2020 and the petitioner had furnished sureties beyond the period of two weeks. Therefore, the Court below came to a conclusion that the bail granted by this Court stands automatically cancelled and therefore proceeded to issue non bailable warrant against the petitioner.

4.Pursuant to the non bailable warrant issued against the petitioner, he was again remanded to judicial custody on 21.10.2020. When the petitioner filed a bail petition before this Court in Cr.OP.No.18336/2020 after his arrest, this Court had disposed of the petition on the ground that the petitioner will have to challenge the order passed by the Court below and that the 2nd bail petition is not maintainable.

5.Heard Mr.M.Mohamed Riyas, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent.

6.The petitioner was unable to furnish the sureties before the Court below within the time prescribed by this Court. Due to the pandemic situation, the petitioner was also not able to get extension of time before this Court. As a result, the order worked out itself and the Court below came to a conclusion that the bail granted by this Court stands automatically cancelled and proceeded to issue a non bailable warrant against the petitioner.

7.Taking into consideration the facts and circumstances of the case and being satisfied with the reasons assigned by the petitioner in not being able to furnish the sureties within the time fixed by this Court, this Court is inclined to interfere with the order passed by the Court below.

8.In the result, the earlier order passed by this Court in CrI.OP.No.13800/2020, dated 09.09.2020, is hereby restored and the petitioner is enlarged on bail. The conditions imposed by this Court in the said order shall stand as it is except condition (b) which is modified as hereunder:

(b) the petitioner shall furnish two sureties for a sum of Rs.10,000/- [Rupees ten thousand only], each to the satisfaction of the learned Judicial Magistrate, Ambatur.

This criminal original petition is accordingly allowed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KP

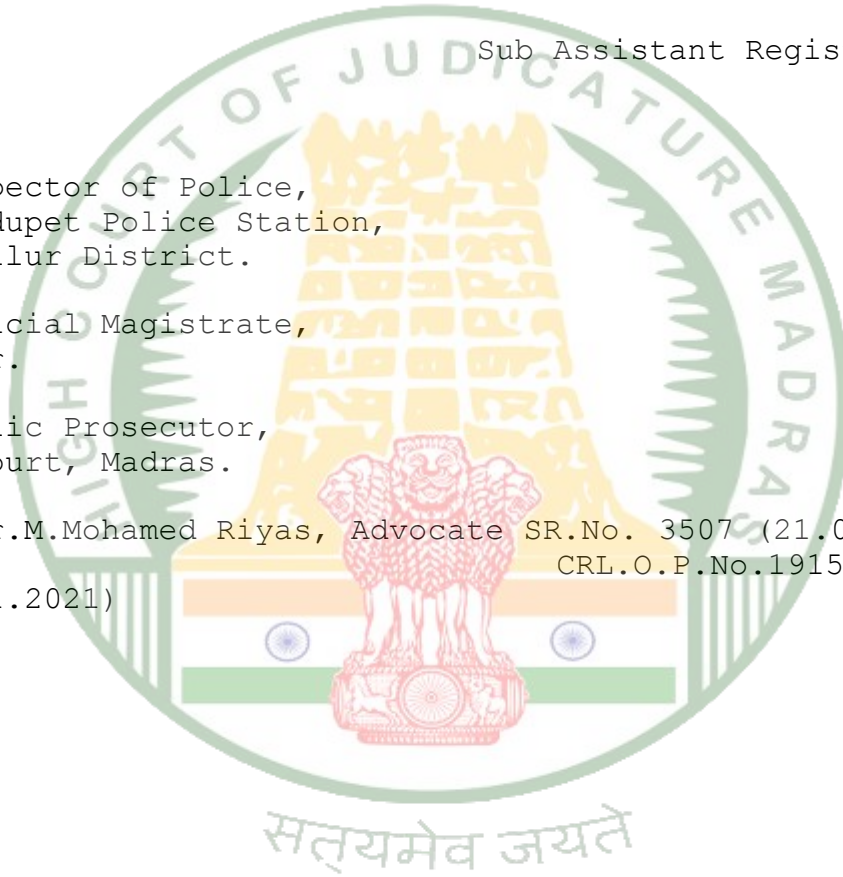
To

1.The Inspector of Police,
Muthapudupet Police Station,
Thiruvallur District.

2.The Judicial Magistrate,
Ambatur.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Mohamed Riyas, Advocate SR.No. 3507 (21.01.2021)
CRL.O.P.No.19150 of 2020
A.SK(19.01.2021)



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