

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2020
CORAM

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.19900 of 2020

1.S.Babu,
S/o.Subramani.

2.Mahendiran @ Balakrishnan,
S/o.Raman.

3.K.Kumar,
S/o.Kaalan.

4.S.Moorthi,
S/o.Sithan.

5.Krishnan @ Krishnasamy,
S/o.Raman.

...Petitioners

Vs.

State represented by
Inspector of Police,
Sholurmattam Police Station,
The Nilgiris District.
Crime No.02 of 2020.

...Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to direct the learned Judicial Magistrate, Kotagiri to accept the Surrender Certificate and Surety Memo of the petitioners pursuant to the order of granting bail in Spl.Crl.MP.No.272 of 2020 on the file of the learned Sessions Judge, Nilgiris at Udhamandalam in connection with Crime No.2 of 2020, on the file of the Sholurmattam Police Station by appreciating the above stated facts and circumstances.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This petition has been filed by the petitioners for a direction to the learned Judicial Magistrate, Kotagiri, to accept the Surrender Certificate and Surety Memo of the petitioners who were released on statutory bail pursuant to the orders passed by the Sessions Judge, Nilgiris, on 24.04.2020.

2.The respondent Police has registered an F.I.R. in Crime No.2 of 2020 for an offence under Section 302 IPC. The petitioners were added as accused persons pending investigation and they were arrested and remanded to judicial custody. Thereafter, the petitioners filed a bail petition under Section 167(2) Cr.P.C., seeking for statutory bail. The Sessions Judge, Nilgiris, passed an order on 24.04.2020 granting statutory bail to the petitioners by imposing certain conditions. For better appreciation, the conditions imposed by the Sessions Court is extracted hereunder:

"In the result, the petition is allowed with the following conditions:

- (i)that due to threat of Covid 19 (corona virus the petitioners/accused No.1 to 6 are ordered to be released on bail immediately on execution of their own bond for Rs.25,000/- each at present.
- (ii)That the petitioners/accused No.1 to 6, after their release, should voluntarily surrender before the judicial magistrate court, Kotagiri on any working day between 8.5.2020 to 22.5.2020 and to execute a bond for sum of Rs.25,000/- each with two sureties for the like sum to the satisfaction of the Judicial Magistrate, Kotagiri and in such event, the earlier own bond executed by the petitioners/accused No.1 to 6 shall stand cancelled, failing which, this bail granted to the petitioners/accused No.1 to 6 is liable to cancelled on application by the respondent police.
- (iii)That the petitioners/accused No.1 to 6, in such event of executing a bond for a sum of Rs.25,000/- each with two sureties, should appear and sign before the respondent Police daily at 10.00 A.M., until further orders."

3.The learned counsel for the petitioners submitted that even though the petitioners had submitted the Surrender Certificate and the Surety Memo before the Judicial Magistrate, Kotagiri, they were orally insisted to produce solvency certificate. The learned counsel submitted that the Sessions Court did not impose any such condition and if solvency certificate is insisted, the petitioners will be asked to produce patta and the petitioners do not possess patta in their name. The learned counsel submitted that left with no other alternative, the present petition has been filed before this Court seeking for appropriate directions. The learned counsel further submitted that the time for surrender was extended from time to time till the end of December 2020.

4.Heard Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor, appearing on behalf of the respondent.

5.The petitioners were granted statutory bail and the Sessions Court had imposed certain conditions which has been extracted supra. It is now a well settled position of law that once the statutory period expires, the accused persons will be entitled for statutory bail if they are prepared to furnish bail bond. No other onerous condition can be imposed against the accused persons, who have been granted statutory bail. Useful reference can be made to the judgment of this Court in the case of Umadevi Vs. State rep. by Inspector of Police, EOW-II, Coimbatore reported in 2019 1 Law Weekly (Cr1.) 387 and the judgment of the Hon'ble Supreme Court in the case of Saravanan Vs. State Rep. by the Inspector of Police reported in (2020) 4 MLJ(crl) 413.

6.In view of the above, there shall be a direction to the learned Judicial Magistrate, Kotagiri, to accept the Surrender Certificate and the Surety Memo executed by the petitioners in line with the conditions imposed by the Sessions Court while passing orders in Spl.CMP.No.272 of 2020 dated 24.04.2020. The petitioners shall surrender before the Judicial Magistrate, Kotagiri, on or before 18.01.2021.

7.This Criminal Original Petition is disposed of with the above directions.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

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1. The Inspector of Police,
Sholurmattam Police Station,
The Nilgiris District.
Crime No.02 of 2020.
2. The Public Prosecutor,
High Court, Madras.

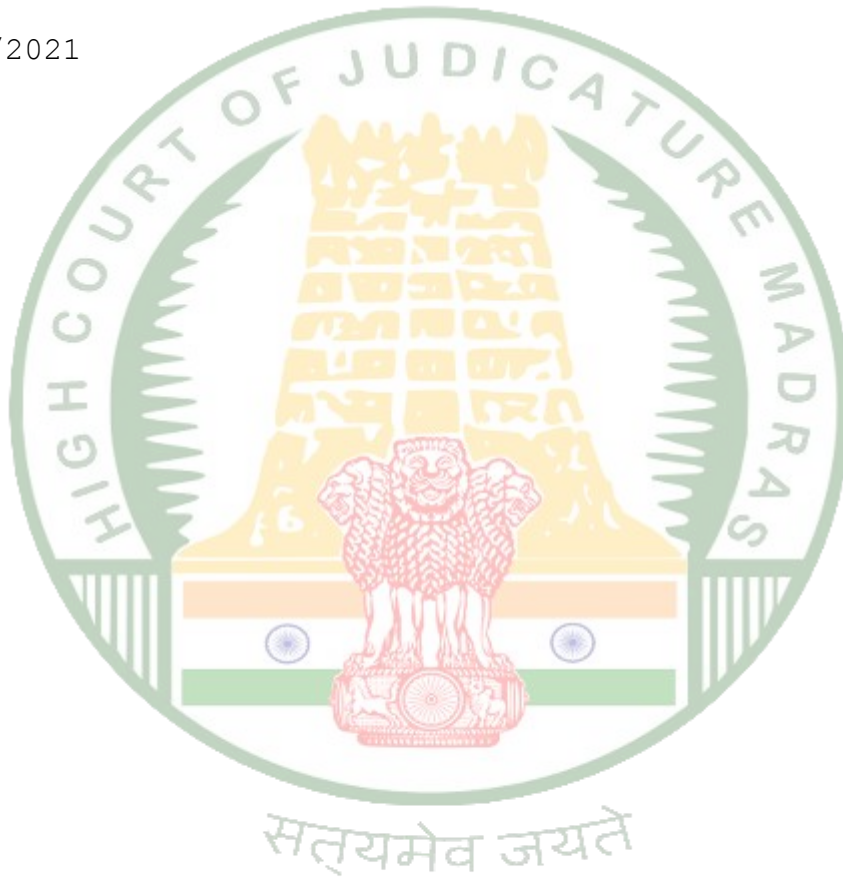
3. The Judicial Magistrate,
Kothagiri.

4.The Sessions Judge,
Nilgiris at Udhagamandalam

+1cc to M/s.Guruprasad, Advocate, S.R.No.650

Cr1.O.P.No.19900 of 2020

SR II (CO)
KKV/08/01/2021



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