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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.25368 of 2021

1.Nagappan
2.Anandhan
3.Durairaj

... Petitioners / Accused

Versus

State By
Inspector of Police,
Bommidi Police Station,
Dharmapuri.
Crime No.320 of 2021

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to modify the condition imposed serial no.5(i) in Crl.M.P.No.3446 of 2021 on the file of Judicial Magistrate, Pappireddipatti, dated 10.12.2021.

For Petitioners : Mr. C. Iyyapparaj
for Mr.B.Vetrivel

For Respondents : Mr. E. Raj Thilak,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed seeking to modify the condition imposed serial no.5(i) in Crl.M.P.No.3446 of 2021 on the file of Judicial Magistrate, Pappireddipatti, dated 10.12.2021.

2. The petitioners are the accused in Crime No.320 of 2021, for the offence under Section 379 of IPC, who were arrested on 24.11.2021. The first petitioner is the father, petitioners 2 and 3 are sons of the first petitioner. The fourth accused/Saravanan, is the close relative of petitioners, hails from the same village, Musiri Taluk, Trichy District. All the four accused in Crime No.320/2021, were granted bail, by the trial Court on 10.12.2021 in CMP.No.3446 of 2021. While in the



incarceration, the petitioners are aggrieved against the condition No.1, which reads as follows:

i. The petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) along with two sureties each for alike the sum to the satisfaction of this Court u/s 88 of Cr.P.C.

3. The learned counsel for the petitioners would submit that all the petitioners hail from Trichy and they have no relatives in Dharmapuri, it is difficult to find out two sureties for each of the petitioners and other accused. Totally, they need 8 sureties, which they are unable to get. In view of non-furnishing of the sureties, though the petitioners were granted bail on 10.12.2021, they are still in incarceration. The condition is onerous one.

4. The learned Additional Public Prosecutor submits that one of the cow of the defacto complainant was found missing and hence, lodged the complaint. There was a search and the petitioners were inspected near the check post and cow was recovered. Further submitted that all the petitioners hail from Musri Taluk, Trichy and they have no reason to visit Dharmapuri District, they belong to one family and they have planned and committed theft. Considering the same, the trial Court had imposed such condition.

5. Considering the submission and finding that the petitioners as well as 4th accused are hail from Musri Taluk, Trichy and belong to same family. Further, more particularly, the first petitioner is the father, 2nd and 3rd petitioners are sons and expecting them to produce 2 securities in a different District in Dharmapuri would be an impossible clause. The petitioners have been granted bail on 10.12.2021, it is almost 13 days thereafter, still they are incarceration and unable to execute the sureties.

6. In view of the same, this Court finds that all the petitioners hail from same family and there are other conditions to safe guard and ensure the presence of the petitioners for investigation. This Court is inclined to modify the condition no.1, with the effect that all the four accused who are petitioners in CMP.No.3446 of 2021, to execute common sureties.



7. Accordingly, this criminal original petition is disposed of.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

AT

To

1. The Judicial Magistrate,
Pappireddipatti.
2. -do through- The Chief Judicial Magistrate,
Dharmapuri.
3. The Inspector of Police,
Bommidi Police Station,
Dharmapuri.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.B.Vetrivel, Advocate, S.R.No.69438

CRL.O.P.No.25368 of 2021

NSK 23/12/2021