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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 08.02.2021

CORAM

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD)No.1582 of 2021

Sampooram,
W/o. Muthaiya, No.3/131, Main Road,
Sathiram, M-Puthur(Po), Thootiyam,
Trichy District. ... Petitioner/Accused-13

Vs.

The Inspector of Police,
CCIW-CID Police Station, Trichy
District. Crime No. 2 of 2020.
... Respondent/Complainant

PRAYER:- Criminal Original Petition filed under Section439(1)(b) Cr.P.C., to modify the condition imposed by the Judicial Magistrate directing the petitioner to deposit a title deeds worth about 50 lakhs along with property valuation certificate from the authorities concern in Cr. M.P.No.296 of 2021 on 20.01.2021 and let the petitioner on bail.

For Petitioner : Mr.Senthil Kumar,

For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Crl.Side)

ORDER

This criminal original petition has been filed to modify the condition imposed by the Judicial Magistrate directing the petitioner to deposit a title deeds worth about 50 lacks along with property valuation certificate from the authorities concern in Cr. M.P.No.296 of 2021 on 20.01.2021 and let the petitioner on bail.

2.The statutory bail was granted to the petitioner by the learned Judicial Magistrate, Musiri, Trichy District in Cr.M.P.No.296 of 2014 on 20.01.2021 and while granting the statutory bail, the Court below observed that the petitioner had earlier moved bail before Hon'ble High Court in Crl.O.P.(MD)No.13694 of 2020 and the same was ordered on 01.12.2020 on condition that the petitioner should deposit a title deed which stands in her name or in her relative's name or in her friends' name worth about Rs.50 Lakhs along with the property valuation certificate from the competent Authorities.

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3.The learned counsel for the petitioner would submit that since the petitioner was unable to comply with the above condition, she had not availed the benefit of the bail and thereafter, she continued to be in confinement. He would further submit that statutory bail is a accrued right of the accused and this Court time and again stated that the condition to be imposed in the statutory bail should not be onerous, defecting the benefit of bail. He further relies on the order in Crl.O.P.(MD)No.15885 of 2019 in a case of M.Prakash Vs. Central Crime Branch, Chennai. In the said order, it is held that imposing condition to deposit some amount in a statutory bail is a onerous one. He would further submit that A1 in this case is Secretary of the Society and A2 is President of the Society. Both were granted statutory bail by directing the first accused to execute a sum of Rs.One Lakhs with two sureties like sum. Like wise, A11 and A4 were granted bail by imposing similar condition and hence, he sought for modification.

4.The learned Government Advocate(Crl.side) appearing for the respondent would submit that there are totally 20 accused in this case and they have misappropriated the amounts of the Society to the tune of Rs.Nine Crores. All the accused joined together and misappropriated by creating forged documents and used the same as genuine. He would further submit that the petitioner had signed several forged documents and facilitated the commission of the offence. Section 81 enquiry has been conducted and the role of the petitioner had been proved. Thereafter, 87 surcharge enquiry also pending. Though the petitioner and other accused were arrested, no specific recovery has been made from them.

5.It is seen that the petitioner earlier moved before this Court for bail and this Court granted bail with a condition that the petitioner should deposit a title deed which stands in her name or in her relative's name or in her friends' name worth about Rs.50 Lakhs along with the property valuation certificate from the competent Authorities. Since the petitioner was unable to comply with the above condition, she was not in a position to come out from the prison. Thereafter, she moved for statutory bail before the Court below and the Court below imposed the same condition whereas the Court below granted statutory bail to A1 and others by imposing condition that he shall execute own bond for a sum of Rs.One Lakh and two sureties each for likesum, one surety must be blood relative. This Court is of the considered opinion that imposing such condition is onerous one and not in parity, the petitioner, who is also similarly placed person, must be imposed with similar condition.

6.In view of the above, the condition imposed by the Court below is modified to the extend that the petitioner shall execute own bond for a sum of Rs.One Lakh with two surety likesum and one surety must be blood relative. The other conditions imposed by the

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Court below shall stand as it is. Accordingly, this criminal original petition is ordered.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy,shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate,
Musiri,Trichy District.

2.The Inspector of Police,
CCIW-CID Police Station, Trichy
District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL OP(MD) No.1582 of 2021
08.02.2021

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