



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2021

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THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.9289 of 2021

G.Manickavasagam

.. Petitioner

vs.

The State represented by
The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi.
Cr.No. 326 of 2021.

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the order passed by the learned Principal and Sessions Judge, Thoothukudi in Cr.MP.No.2338 of 2021, dated 24.06.2021 and to set aside the condition (a) in so far as the direction for deposit of cash security of Rs.1,47,000/- before the learned Judicial Magistrate No.II, Kovilpatti and the condition in clause (b) to appear before the respondent police daily twice at 10.00 a.m., and 5.00 p.m., for a period of one month.

For Petitioner : Mr.D.Sivaraman

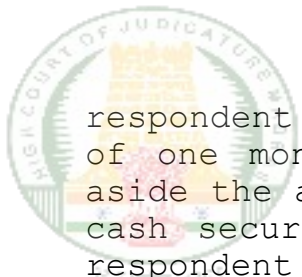
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed against the order passed by the Principal and Sessions Judge, Thoothukudi, in Cr.MP.No.2338 of 2021, dated 24.06.2021. The petitioner is facing charges under Sections 465, 468 and 420 I.P.C in Crime No.326 of 2021 on the file of the respondent police.

2.As per the prosecution case, the petitioner was working as Block Development Officer and he along with the other accused persons forged document and cheated the Panchayat fund to the tune of Rs.1,47,000/-.

3.He moved an anticipatory bail application before the Principal Sessions Judge, Thoothukudi, in Cr.M.P.No.2338 of 2021 and by the order, dated 24.06.2021, he was granted anticipatory bail on condition that cash deposit of Rs.1,47,000/- as security along with usual conditions and he has also directed to appear before the



respondent daily twice, ie., 10.00 a.m. and 05.00 p.m., for a period of one month. Now, this petition is filed seeking order to set aside the above said conditional order with regard to the deposit of cash security of Rs.1,47,000/- and as well as report before the respondent police twice in a day.

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4.Heard both sides.

5.The main grievance of the petitioner is that ordering in cash as security is onerous. The judgment of the Hon'ble Supreme Court in the case of ***Manoj Kumar Sood and another Vs. State of Jharkhand in SLP. (Cr1.)No.1274 of 2021, dated 19.03.2021*** is cited. In that case, the petitioner was directed to deposit Bank Guarantee worth about Rs.53,60,000/-, that was challenged in the above said S.L.P. When the Hon'ble Supreme Court by following the judgment reported in ***2006 (9) SCC 169 [Shyam Singh Vs. Stated through C.B.I.]*** observed that the trial Court or the bail Court should not act as a recovery Court and in the course of deciding bail application only the fact is such as "the nature of accusation and the severity of the punishment in the case of conviction; the nature of the materials relied upon by the prosecution; reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character behavior and standing of the accused; the larger interest of the public or the State and similar other considerations", must be considered.

6.So, on that ground the condition was set aside. This also been followed in other cases also. So, during the course of arguments, the learned counsel for the petitioner submitted that actually and in fact he is the victim of the Crime and according to him, his signature has been forged by the other co-accused persons and misappropriated the amount. So, for the forgery committed by the co-accused, he cannot be penalized. Reading of the order of the Court shows that it was imposed that the condition to deposit the security amount in tune with the misappropriated amount in this case. So, I am of the considered view that relying upon the earlier orders, I am of the considered view that imposing of the cash security is onerous in nature and liable to be set aside. Accordingly, that condition alone is set aside.

7.With regard to reporting before the respondent police twice in a day, if the petitioner is experiencing any difficulty, he has to approach the concerned court which granted anticipatory bail, for modification or relaxation as the case may be. So, this Court cannot interfere in the condition that has been imposed with regard to reporting.



8.So, this Criminal Original Petition is allowed in part and the condition imposing deposit of cash security of Rs.1,47,000/- alone is set aside. In respect of other condition in the petition, this petition is dismissed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

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 Principal and Sessions Judge,
Thoothukudi.

2.The Judicial Magistrate No.II,
Kovilpatti.

3. Do through the chief judicial magistrate, thoothukudi.

4.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi.

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

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-23242[F] dated 20/07/2021)

Crl.O.P. (MD)No.9289 of 2021
19.07.2021

sj (CO)

TR(26.07.2021) 3P 7C