



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighth day of April Two Thousand Twenty Two

PRESENT

The Hon'ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.4717 of 2022

IN CRL.O.P.No.4507 of 2018

CHIRAG MAKWANA

[PETITIONER / ACCUSED]

Vs

1 STATE REP BY
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
EDF WING I, TEAM II,
VEPERY, CHENNAI.
(CRIME NO.394/2015)

[1st RESPONDENT / COMPLAINANT]

2 ASIK RASOOL

[2nd RESPONDENT / DEFACTO COMPLAINANT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to relax the condition imposed that the petitioner shall appear before the respondent police on every Monday at 10.30 a.m. as per order in Crl.O.P.No.8698 of 2021, dated 03.09.2021 on the file of this Hon'ble Court and thus render justice.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.S.RAVINDRANATH, Advocate for the petitioner and of MR.A.DAMODARAN, Additional public Prosecutor on behalf of the 1st Respondent and MR.N.S.SIVAKUMAR, Advocate for the 2nd Respondent the court made the following order:-

The petitioner, who is the first accused in Crime No.394 of 2015, was granted bail in Crl.M.P.No.6806 of 2016 by the Chief Metropolitan Magistrate Court, Egmore, on 28.06.2016. Due to non compliance of condition, the bail was cancelled on application filed by the second respondent/defacto complainant in Crl.M.P.No.958 of 2016 dated 09.05.2017. Thereafter, the said cancellation of bail was set aside



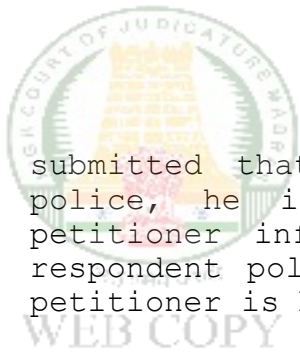
by this Court in Crl.O.P.No.4507 of 2018 by an order dated 05.07.2021. Thereafter, the petitioner filed Crl.M.P.No.8698 of 2021 and the same was allowed on 03.09.2021, with condition that "the condition insofar as appearance as imposed by order dated 05.07.2021 alone modified and the petitioner shall appear before the respondent police on every Monday at 10.30 a.m., till the filing of charge sheet, thereafter, appear before the trial Court on all hearing dates without fail. All other conditions remain unaltered."

2. In the meanwhile, taking advantage of the fact that the petitioner is hailing from Bombay and he does not know much people in Chennai, his local, such ignorance was exploited and under the guise of legal advice, improper advice given and from the petitioner lumpsum as fees extracted and due to improper advice, the petitioner could not comply with the bail order. Considering the same, this Court on 03.09.2021 modified the condition imposed on the petitioner and from then on appearing regularly complying with the conditions till 06.09.2021. Thereafter, he has been appearing on every Monday on certain of the Mondays, he was unable to appear for various season, including Covid - 19 restrictions i.e. on 15.11.2021 and 22.11.2021, 14.02.2022, 21.02.2022, 07.03.2022, 14.03.2022, 21.03.2022 and 28.03.2022. Now, the petitioner is not allowed to sign in the note book, despite petitioner appearing before the respondent.

3. In the meanwhile, the defacto complainant /second respondent coming to know that the petitioner is making arrangement to flee the country, filed a petition seeking surrender of petitioner's Passport and also restricting the petitioner from fleeing the country. The trial Court by order dated 10.03.2022 recording the submission of the petitioner, directed the petitioner to file an affidavit of undertaking within four weeks that he will not go abroad without the permission of the Court and in case of any violation, the first respondent can request the authorities to issue Look Out Circular.

4. The learned Additional Public Prosecutor submits that the first respondent filed cancellation of bail on 31.03.2022 on the ground that he failed to comply with the condition and thereafter, notice was taken to the petitioner on 01.04.2022. Further submitted that Investigation is almost completed and within a period of four weeks, charge sheet will be filed. The order of the lower Court in Crl.M.P.No.793 of 2022 dated 10.03.2022 served to the petitioner on 05.04.2022, acknowledgement produced.

5. Counsel for the petitioner submitted that the petitioner hails from Mumbai. The case was registered in the year 2015 and he had been in prison for quite sometime. Thereafter, bail was granted with condition. Thereafter, petitioner complied with the condition, on few occasions when he was down with Covid-19 and due to the restriction imposed and for other reasons, he could not appear on other occasions, he could not appear before the respondent police. He further



submitted that wherever petitioner appeared before the respondent police, he is pressurised to settle the defacto complaint the petitioner informed that he handed over diamond to A3 & A4. The respondent police failed to consider the same. On the contrary, the petitioner is being forced to settle the issue.

6.He further submitted that he shall file an affidavit before the lower Court that he will not leave the country without getting permission of the Court and he shall cooperate with the investigation and appear before the respondent police as and when required. Further, in his affidavit, he shall provide the provide the date of departure, arrival, place of stay, contact details etc.,

7.Considering the submissions and the reasons for non appearance for certain days, on the explanation given, this Courts finds it to be reasonable, the primary concern is that the availability of the petitioner to face the case and trial, considering the submission of Additional Public Prosecutor that investigation almost completed and charge sheet to be filed within a period of four weeks, the petitioner is directed to appear for four Mondays starting from 11.04.2022, 18.04.2022, 25.04.2022 and 02.05.2022, thereafter, in the event of the respondent police not filing the charge sheet, the petitioner to appear before the respondent police on every first Monday of the month, till the charge sheet is filed. Accordingly, the Criminal Miscellaneous Petition is disposed of.

-sd/-

08/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

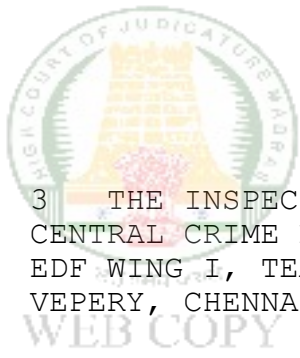
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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE FOR CCB CASES,
EGMORE, AT ALLIKULAM, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, ALLIKULAM, CHENNAI.



3 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
EDF WING I, TEAM II,
VEPERY, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.S.RAVINDRANATH Advocate on payment of necessary
charges

Order
in
CRL MP.4717/2022
in
CRL OP.4507/2018

Date :08/04/2022

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JPA 08/04/2022