



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.9357 of 2022

Mansoor Ali,
S/o. M.Jainulabudeen

...Petitioner

Versus

The Superintendent of GST and
Central Excise Hqr Preventive Unit,
GST Chennai South Commissionerate,
692, M.H.U. Complex,
Nandanam, Chennai-600 035.

...Respondent

PRAYER:Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order and modify the condition passed in Crl.M.P.No.11 of 2022 dated 07.02.2022 by the learned Addl. Chief Metropolitan Magistrate (E.O.I Court), Egmore, Chennai and to direct the learned Addl. Chief Metropolitan Magistrate (E.O.I. Court), Egmore, Chennai to return the cash security deposited by the petitioner in R.R.No.42 of 2021 to the petitioner.

For Petitioner : Mr.K.J.Saravanan

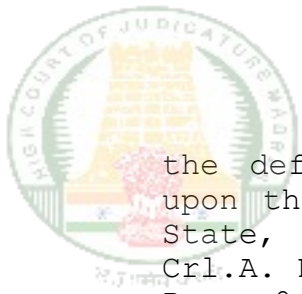
For Respondent : Mr.N.P.Kumar,
Special Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to set aside the order passed in Crl.M.P.No.11 of 2022 on the file of learned Addl. Chief Metropolitan Magistrate (E.O.I Court), Egmore, Chennai and to return cash security deposited by the petitioner in R.R. No. 42 of 2021.

2.It is stated that while releasing the petitioner in a petition filed under Sec.167(2) of Cr.P.C., conditions were imposed to deposit the cash security of Rs.5,00,000/- (Rupees five lakhs only) and also execute a bond of Rs.50,00,000/- (Rupees fifty lakhs only) by depositing documents for property worth about Rs.50 lakhs, otherwise it would be amounting to default bail.

3.The learned counsel appearing for petitioner would content that such onerous condition is not permissible while granting



the default bail under Sec.167(2) Cr.P.C. He has also relied upon the judgment of Apex Court in the case of Saravanan Vs. State, rep. by the Inspector of Police, dated 15.10.2020 in CrI.A. Nos.681-682 of 2020. In the above case, the Apex Court in Para 9 has held that the only requirement for getting the default bail or statutory bail under Sec.167(2) Cr.P.C. is that the accused is in jail for more than 60 or 90 days, as the case may be, and within 60 or 90 days, as the case may be, the investigation is not completed and no charge sheet is filed by 60th or 90th day and the accused applies for default and is prepared to furnish bail. No other condition of deposit of alleged amount involved can be imposed by the court. Imposing such condition while releasing the accused on default bail or statutory bail would frustrate the very object and purpose of default bail under Sec.167(2) Cr.P.C.

4. Absolutely, there is no dispute with regard to the above condition. It is relevant to note that the offence alleged against the petitioner is GST evasion to the tune of Rs.11.72 crores. No doubt, he was released on bail under Sec.167(2) Cr.P.C. After the grant of bail order, he has filed a petition before this Court in CrI.O.P.No. 3370 of 2022 seeking for modification of the condition imposed by the trial court. This Court by an order dated 17.02.2022 has allowed the petition and during submissions, it was submitted that he has prepared to deposit a sum of Rs.5 lakhs instead of producing the documents of property worth about Rs.50 lakhs. Accordingly, the modification was ordered. Pursuant to the same, he has deposited a sum of Rs.5 lakhs before the trial court and enlarged on bail. Therefore, having availed the benefit of modification and he himself offered to deposit a cash surety of Rs.5 lakhs, the condition cannot be said to be onerous. Though onerous condition is not permissible while entertaining the petition under Sec.167 (2) Cr.P.C., the very conduct of the petitioner offering himself to deposit a sum of Rs.5 lakhs before this Court and subsequent deposit before the trial court, this Court is of the view that it cannot be construed as onerous condition to interfere the order. In fact, only at the petitioner's instance, modification order was passed. In such view of the matter, I do not find any merit in this petition. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rpp



To

1. The Additional Chief Metropolitan Magistrate (EOI Court)
Egmore, Chennai.

2. The Superintendent of GST and
Central Excise Hqr Preventive Unit,
GST Chennai South Commissionerate,
692, M.H.U. Complex,
Nandanam, Chennai-600 035.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.J.Saravanan, Advocate, S.R.No.38403 (30/06/2022)

CRL.O.P.No.9357 of 2022

RLD(CO)
RGA(21/06/2022)