

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NOS.24065 & 24172 OF 2021

1. Mr.Cletus Ikechukwu
... Petitioner in Crl.O.P.No.24065 of 2021
2. Mr.Paulinus Chikeluo
... Petitioner in Crl.O.P.No.24172 of 2021

Vs.

The State of Tamil Nadu,
Rep.by Inspector of Police,
Cyber Crime Police Station,
Central Crime Branch,
Vepery, Chennai - 7.

... Respondents in both the Crl.O.Ps.

PRAYER in Crl.O.P.No.24065 of 2021: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for records the in Crl.M.P.No.24134 of 2021 on the file of the Hon'ble Chief Metropolitan Magistrate Court, Chennai wherein the Hon'ble Court had issued Bail conditions that the Petitioner should deposit Aadhar Card or Family Card and confine himself in Trichy Special Refugee Camp in impugned order and set aside the above said condition.

PRAYER in Crl.O.P.No.24172 of 2021: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for records the in Crl.M.P.No.24135 of 2021 on the file of the Hon'ble Chief Metropolitan Magistrate Court, Chennai wherein the Hon'ble Court had issued Bail conditions that the Petitioner should deposit Aadhar Card or Family Card and confine himself in Trichy Special Refugee Camp in impugned order and set aside the above said condition.

For Petitioners
in both the Crl.O.Ps. : Mr.Kiron Shetty

For Respondent
in both the Crl.O.Ps. : Mr.L.Baskaran
Government Advocate
(Crl.Side)

ORDER

When the case came up for hearing, on 10.06.2022, the learned Counsel for the Petitioners submitted that the learned Chief Metropolitan Magistrate had granted bail to the Petitioners with onerous condition that they had to furnish their Adhar Card or Voter Id Card as proof of Identity. The Petitioner being a foreign national, could not comply with the said condition. Therefore, he had approached this Court seeking direction to the learned Chief Metropolitan Magistrate and to set aside the onerous condition.

2. The learned Government Advocate vehemently objected to modify the condition stating that the Case was investigated and final report of the investigation was laid before the Court of the learned Chief Metropolitan Magistrate which was taken cognizance and the trial had commenced, wherein the case is posted for examination of P.W.1. If the condition is modified or the orders passed by the learned Chief Metropolitan Magistrate is set aside, the Petitioners are likely to abscond and the trial will be effected. Therefore, he sought adjournment to furnish Status Report. The Case was adjourned to 22.6.2022 seeking remarks from the learned Chief Metropolitan Magistrate by E-mail.

3. When the case came up for hearing and the learned Chief Metropolitan Magistrate had offered his remarks, wherein it is stated that the Court had not directed the Petitioners to furnish their Adhar Card or Voter Id Card. It had granted bail to the Petitioners with a condition that the Petitioner shall execute bond, so the sureties shall furnish their proof of Identity by either Aadhar Card or Voter ID Card. Accepting the remarks offered by the learned Chief Metropolitan Magistrate, the submission of the learned Counsel for the Petitioners that they were insisted to file Adhar Card cannot at all be accepted.

4. Further the learned Government Advocate (Crl.side) furnished Counter Affidavit of the Investigation Officer wherein it had been stated that, in case of grant of bail to the Petitioners, they shall be directed to remain in the Special Camp for the foreigners at Trichy and find a copy of the G.O. No.476 dated 15.11.2012. As per the G.O.No.476 dated 15.11.2011, the Government of Tamil Nadu exercises powers conferred under Section 3 (2)(e) of the Foreigners Act 1946 (Central Act XXXI) of 1946, read with the notification of the Government of India, Ministry of Home Affairs, No.4/3/56(1)F-1 dated 19.04.1958, for restricting the movement of the Petitioners herein.

5. Considering the remarks offered by the learned Chief Metropolitan Magistrate, Chennai the learned Chief Metropolitan Magistrate, Chennai is directed to pass appropriate orders if the sureties are produced by the Petitioners as per the order granting bail by the learned Chief Metropolitan Magistrate, Chennai. Also the learned Chief Metropolitan, Chennai, is directed that in case of grant of Bail, he shall include the conditions imposed by the Union Government directing the State Government to restrict the foreigners involved in crimes in the state of Tamil Nadu to be confined to special Camp at Trichy in the event of release from the prison.

6. The Investigation Officer is directed to furnish a copy of the G.O.No.476 dated 15.11.2012 to the learned Chief Metropolitan Magistrate, Chennai, as the learned Chief Metropolitan Magistrate, Chennai, has clearly stated that he had not imposed the onerous condition on the Petitioner, but only on the sureties of the Petitioners.

7. With above directions this Petition is Disposed of.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Metropolitan Magistrate,
Chennai.
2. The Inspector of Police,
Cyber Crime Police Station,
Central Crime Branch,
Vepery, Chennai - 7.
3. The Public Prosecutor
High Court, Madras.

+2ccs to M/s.G.Vijay Anand, Advocate, S.R.Nos.39194, 39195

CrI.O.P.Nos.24065 & 24172 of 2021

AJB(CO)
RLP(26/07/2022)