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Crl.O.P.No.29864 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.12.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

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1.Gowtham Midya
2.Amith Pandit

... Petitioners

Vs.

The State rep. by
The Inspector of Police,
B-5, Manavala Nagar Police Station,
Thiruvallur District.
(Crime No.258 of 2022)

... Respondent

Prayer :- Criminal Original Petition filed under Section 439(1)(b) Cr.P.C. praying to modify the condition imposed on dated 26.10.2022 that “the petitioners shall each execute a bond for Rs.10,000/- with two acceptable and reliable sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thiruvallur. One among the sureties of the each petitioner must be a Government Surety” in Crl.M.P.No.5058 of 2022 on the file of the Principal Special Judge Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.R.Parthiban

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor



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ORDER

This petition has been filed for modification of the condition imposed by the learned Principal Special Judge Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.5058 of 2022 dated 26.10.2022, to execute a two acceptable and reliable sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thiruvallur. One among the sureties of the each petitioner must be a Government Surety.

2. The case of the prosecution is that the petitioners were found to be in illegal possession of 1.200 kgs of Ganja. Hence, the respondent police registered a case in Crime No.258 of 2022 for the offence punishable under Sections 8(c) r/w 20(b)(ii)(B) of the NDPS Act and 328 of IPC as against the petitioners and arrested the petitioners and remanded to judicial custody on 26.09.2022.

3. While granting bail to the petitioner, by an order dated 26.10.2022 in Crl.M.P.No.5058 of 2022 , the Court below imposed the following conditions:-



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“The petitioners shall each execute a bond for Rs.10,000/- with two acceptable and reliable sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thiruvallur. One among the sureties of the each petitioner must be a Government surety.”

4. The learned counsel appearing for the petitioners would submit that the petitioners are the other state peoples, therefore, they were unable to execute a government surety. However, the petitioners are ready to furnish a local surety before the Court below. Hence, he prays to modify the condition imposed on the petitioner.

5. The learned Additional Public Prosecutor would submit that the petitioners were arrested and remanded to judicial custody on 26.09.2022, alleged for the offences under Sections 8(c) r/w 20(b)(ii)(B) of the NDPS Act and 328 of IPC. Therefore, he sought for dismissal of this petition seeking modification.

6. Heard Mr.R.Parthiban, learned counsel appearing for the petitioner and Mr.S.Raja Kumar, learned Additional Public Prosecutor appearing for the respondent police.



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7. It is seen that the Court below directed the petitioners to execute a bond for Rs.10,000/- with two acceptable and reliable sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Thiruvallur. One among the sureties of the each petitioner must be a Government Surety. Considering the above facts and circumstances, and also considering the order passed by the Court below, this Court is inclined to modify the above said condition.

8. Accordingly, the condition imposed on the petitioner in Crl.M.P.No.5058 of 2022 dated 26.10.2022, i.e., one among the sureties of the each petitioner must be a Government Surety is hereby modified as follows :-

“ One among the sureties of the each petitioner must be a local Surety. ”.

The other conditions shall remain intact.

9. Accordingly, this Criminal Original Petition is ordered.

02.12.2022

Internet : Yes/No

Index : Yes/No

Speaking/Non speaking order

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Note: Issue order copy on 05.12.2022



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1. The Principal Special Judge Special Court under EC & NDPS Act, Chennai.
2. The learned Judicial Magistrate No.II, Thiruvallur.
3. The Inspector of Police,
B-5, Manavala Nagar Police Station,
Thiruvallur District.
4. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN,J.
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