



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 28.02.2022
PRONOUNCED ON : 09.03.2022
CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P. (MD)No.1426 of 2022

WEB COPY

1.Sudalaimoorthy Kannan
2.Meenatchi
3.Sudalayandi @ Venkatesh
4.Ramakrishnan

... Petitioners/Petitioners

Vs .

State represented by
The Sub Inspector of Police,
Sathankulam Police Station,
Sathankulam,
Thoothukudi District.
(In Crime NO.346 of 2021)

: Respondent / Respondent

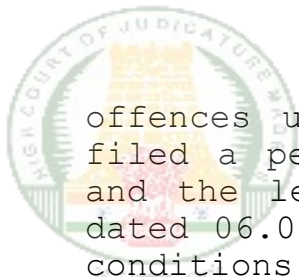
PRAYER : Criminal Original Petition has been filed under Section 482 r/w 439(1)(b) Cr.P.C, to modify the condition imposed by the learned Principal Sessions Judge, Thoothukudi in the order dated 06.01.2022 in Cr.M.P.No.7 of 2022, insofar as the deposit of Rs.40,000/- before the Judicial Magistrate, Sathankulam (in respect of condition No. (a)) by the petitioners.

For Petitioners : Mr.C.Arul Vadivel @ Sekar
For Respondent : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed, seeking orders to modify the condition imposed by the learned Principal Sessions Judge, Thoothukudi in Cr.M.P.No.7 of 2022, dated 06.01.2022, directing the petitioners to deposit a sum of Rs.10,000/- each, before the learned Judicial Magistrate, Sathankulam.

2. The petitioners, who are the accused Nos.1 to 4 in Cr.No.346 of 2021, on the file of the respondent police for the alleged



offences under Sections 147, 294(b), 427 and 506(i) I.P.C., have filed a petition in Cr.M.P.No.7 of 2022 seeking anticipatory bail and the learned Principal Sessions Judge, Thoothukudi, vide order dated 06.01.2022, has granted anticipatory bail by imposing certain conditions and wherein the petitioners were directed to deposit a cash security of Rs.10,000/- each before the Court of Judicial Magistrate, Sathankulam.

3. The learned Counsel for the petitioners would submit that the condition to deposit a cash security of Rs.10,000/- each, totally Rs.40,000/- is onerous condition and the petitioners are not able to deposit such a huge amount, that the Honourable Apex Court and the High Courts have specifically held that the bail condition should be executable and it should not be onerous and oppressive in nature, that though the Court of law is entitled to put certain conditions at its discretion, it should be reasonable and judicious and should not be arbitrary and that therefore, the impugned condition is liable to be modified.

4. The learned Counsel for the petitioner has relied on the decisions of this Court to stress the point that while granting bail or anticipatory bail, the onerous condition should not be imposed.

5. No doubt, it is settled law that the bail condition should be executable and it should not be onerous and oppressive in nature. The Honourable Supreme Court in ***M.D.Dhanapal Vs. State represented by the Inspector of Police*** in a petition of ***Special Leave to Appeal (Crl.) Nos.5195-5196 of 2019, dated 11.06.2019***, has reiterated the settled position that the bail cannot be made conditional upon heavy deposits beyond the financial capacity of an applicant for bail. It cannot be said that the Courts should not impose such conditions at all.

6. In the case on hand, the learned Principal Sessions Judge, considering the fact that the petitioners have allegedly demolished the compound wall and caused damages to the tune of Rs.50,000/-, has chosen to impose such condition directing the petitioners to deposit Rs.10,000/- each. On considering the above facts and circumstances and also the settled legal position, the condition imposed by the learned Principal Sessions Judge cannot be said to be onerous and is reasonable and as such, the same cannot be found fault with. Hence, this Court concludes that the above petition is devoid of merits and the same is liable to be dismissed.

7. In the result, the Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (Crl.)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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 Sessions Court, Thoothukudi
2. The Judicial Magistrate, Santhankulam.
3. The Sub Inspector of Police,
Sathankulam Police Station,
Sathankulam, Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.C.ARUL VADIVEL @ SEKAR, Advocate, SR.No.11020

Crl.O.P. (MD)No.1426 of 2022
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