



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/04/2022

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The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.6380 of 2022

1.Janshi Rani

2.Praveen : Petitioners/Accused

Vs

State represented by
The Inspector of Police,
Tiruchirappalli Economic Offences Wing,
Tiruchirappalli.
Crime No.2 of 2020.

: Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 r/w. Section 439(1)(b) of Cr.P.C., to modify the condition imposed by the learned Special Judge, (FAC) Special Court under TNPID Act Cases, Madurai, dated 16.02.2022 in Cr.M.P.No.15 of 2022.

For Petitioners : Mr.Senguttyarasan, P.

For Respondent : Mr.M.Muthu Manikkam,

Government Advocate (Criminal Side)

O R D E R

The Criminal Original Petition has been filed seeking orders to modify the condition imposed by the learned Special Judge, (FAC) Special Court under TNPID Act Cases, Madurai, in Cr.M.P.No.15 of 2022, dated 16.02.2022.

2.The learned counsel for the petitioners would submit that the learned Special Judge, (FAC) Special Court under TNPID Act Cases, Madurai, has imposed some conditions, which are onerous conditions and that too for releasing the petitioners on statutory bail.

3.The learned Special Judge has imposed the following conditions :

(a) *This petitioners are directed to be released on bail an executing a bond for Rs.1,00,000/- along with two sureties for the like sum.*

(b) *One of the sureties shall be a member of Local Body.*



(c) Another surety shall be the blood-relative of the petitioners.

(d) Further, both petitioners should deposit each Rs.2,00,000/- (Total Rs.4,00,000/-) into the credit of this case.

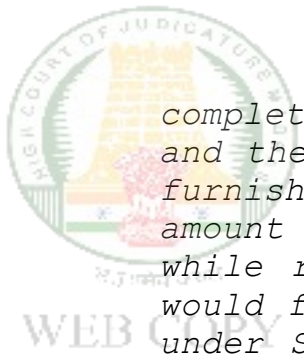
(e) And further, after their release, they have to appear before the respondent Police daily at 10.00 am and 05.00 pm until further orders."

4. The Honourable Supreme Court in **Sandeep Jain Vs. National Capital Territory of Delhi** reported in **CDJ 2000 SC 025** has specifically held that any bail condition which is in the nature of onerous condition is against law. Again in **Ramathal & Others Vs. Inspector of Police & Another** reported in **CDJ 2009 SC 443**, the Honourable Apex Court has disapproved the bail condition imposed by the bail Court to deposit huge amount.

5. Moreover, it is now settled law that when a Court considers a statutory bail, onerous conditions cannot be imposed and the Court has to satisfy itself, that only requirement as to whether the accused person is prepared to furnish bail.

6. The Hon'ble Supreme Court in three Judges Bench judgment in **Saravanan Vs. State represented by the Inspector of Police** in Crl.A.Nos.681 and 682 of 2020, dated 15.10.2020, as observed as follows:

"9. Having heard the learned counsel for the respective parties and considering the scheme and the object and purpose of default bail/statutory bail, we are of the opinion that the High Court has committed a grave error in imposing condition that the appellant shall deposit a sum of Rs.8,00,000/- while releasing the appellant on default bail/statutory bail. It appears that the High Court has imposed such a condition taking into consideration the fact that earlier at the time of hearing of the regular bail application, before the learned Magistrate, the wife of the appellant filed an affidavit agreeing to deposit Rs.7,00,000/-. However, as observed by this Court in catena of decisions and more particularly in the case of Rakesh Kumar Paul (supra), where the investigation is not completed within 60 days or 90 days, as the case may be, and no chargesheet is filed by 60 th or 90th day, accused gets an "indefeasible right" to default bail, and the accused becomes entitled to default bail once the accused applies for default bail and furnish bail. Therefore, the only requirement for getting the default bail/statutory bail under Section 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 bail and is prepared to furnish bail. No other condition of deposit of the alleged amount involved can be imposed. Imposing such condition while releasing the accused on default bail/statutory bail would frustrate the very object and purpose of default bail under Section 167(2), Cr.P.C. As observed by this Court in the case of Rakesh Kumar Paul (supra) and in other decisions, the accused is entitled to default bail/statutory bail, subject to the eventuality occurring in Section 167, Cr.P.C., namely, investigation is not completed within 60 days or 90 days, as the case may be, and no charge sheet is filed by 60th or 90th day and the accused applies for default bail and is prepared to furnish bail.

9.1.As observed hereinabove and even from the impugned orders passed by the High Court, it appears that the High Court while releasing the appellant on default bail/statutory bail has imposed the condition to deposit Rs.8,00,000/- taking into consideration that earlier before the learned Magistrate and while considering the regular bail application under Section 437 Cr.P.C., the wife of the accused filed an affidavit to deposit Rs.7,00,000/-. That cannot be a ground to impose the condition to deposit the amount involved, while granting default bail/statutory bail.

9.2. The circumstances while considering the regular bail application under Section 437 Cr.P.C. are different, while considering the application for default bail/statutory bail. Under the circumstances, the condition imposed by the High Court to deposit Rs.8,00,000/-, while releasing the appellant on default bail/ statutory bail is unsustainable and deserves to be quashed and set aside."

7.The above decisions are squarely applicable to the case on hand. In the case on hand, as rightly contended by the learned counsel for the petitioners, the Special Court has imposed onerous conditions, directing the petitioners to deposit a sum of Rs.4,00,000/- and also to produce the sureties of blood relative and a member of Local Body and to appear before the respondent Police daily twice. Since the conditions are onerous, this Court is inclined to modify the conditions imposed by the learned Special Judge, (FAC) Special Court under TNPID Act Cases, Madurai.

8.Accordingly, the petitioners are directed to execute a bond for Rs.1,00,000/- (Rupees One Lakh only) each along with two sureties for like sum and the petitioners are directed to appear before the respondent Police daily at 10.00 am until further orders and the other conditions imposed by the learned Judge shall remain unaltered. The petitioners are at liberty to approach the concerned Court for further relaxation or modification.



9. In view of the above, the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

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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 Special Judge, (FAC) Special Court
under TNPID Act Cases, Madurai.
- 2.The Inspector of Police,
Tiruchirappalli Economic Offences Wing,
Tiruchirappalli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL OP(MD). No.6380 of 2022

Date : 08/04/2022

CK(CO)

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