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Crl.O.P.No.746 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.746 of 2023

Kanchana

...

Petitioner

Vs.

State rep.by

The Inspector of Police,
T-11, Thirunindravur PS,
(Cr.No.134/2022)

...

Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to modify the following conditions No.1”That she shall 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 -II, Thiruvallur, on condition that both sureties must be having immovable property at Chennai standing in their own name supported with title documents and property tax receipt. 2.One surety must be a blood surety and another surety shall be a government surety” in Crl.M.P.No.5021/2022 dated 14.10.2022 on the file of the Hon'ble Special Judge, Principal Special Court under EC & NDPS Act Chennai 104.

For Petitioner : Mr.P.Muthamizhselvakumar
For Respondent : Mr.S.Santhosh
No.1 Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed to modify the following



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conditions No.(i)”That she shall 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 -II, Thiruvallur, on condition that both sureties must be having immovable property at Chennai, standing in their own name supported with title documents and property tax receipt. (ii)One surety must be a blood surety and another surety shall be a Government surety” in Crl.M.P.No.5021 of 2022 dated 14.10.2022, on the file of the Special Judge, Principal Special Court under EC & NDPS Act, Chennai - 104.

2.The learned counsel for the petitioner submitted that the petitioner applied for bail under section 167(2) Cr.P.C. in Crl.MP.No.5021 of 2022, in Crime No.134 of 2022, on the file of the Inspector of police, T11 Police Station. The Principal Special Court under EC & NDPS Act, Chennai, while granting bail, imposed certain unworkable conditions and therefore, petitioner was not able to comply with the conditions. This petition is filed for modification of the conditions imposed.

3.In response, the learned Government Advocate (Crl.Side) submitted



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that the petitioner was granted bail on 14.10.2022. Petitioner did not furnish surety till now and on 09.01.2023, final report had been filed. In view of the final report filed, petitioner's bail order got extinguished. In support of his submission, he pressed into service the judgment in ***Uday Mohanlal Acharya Vs. State of Maharashtra*** reported in ***(2001) 5 SCC 453***.

4.Considered the rival submissions and perused the records. It is seen from the bail order that the Principal Special Court under EC & NDPS Act Chennai, ordered the following conditions:

That she shall 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 – II, Thiruvallur, on condition that both sureties must be having immovable property at Chennai standing in their own name supported with title documents and property tax receipt.

On her release she should appear before the respondent police daily at 10.00 a.m. and 5.00 p.m. on all days until further orders. One surety must be a blood surety and another surety shall be a Government surety.



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These conditions are apparently onerous conditions. It is very difficult to find a surety who owns an immovable property, a blood relative and a Government servant. The condition must be imposed with a view to facilitate the bail order and not to defeat the order of bail.

5. In this view of the matter, this Court modifies the condition that the petitioner shall be released on bail on her execution of a bond for Rs.10,000/- with two acceptable and reliable sureties known to the petitioner and having permanent residence at Chennai. In view of the onerous conditions and that had made the compliance of the condition not possible, this Court is of the view that the judgment of the Hon'ble Supreme Court in *Uday Mohanlal Acharya Vs. State of Maharashtra* reported in (2001) 5 SCC 453 cannot be made applicable to this case. Accordingly, this Criminal Original Petition is disposed of.

23.01.2023

sli
Internet:Yes
Index:Yes/No
Speaking/Non speaking order
To:

1.The Inspector of Police,
T-11, Thirunindravur PS,

4/6



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(Cr.No.134/2022)

2.The Principal Special Court under EC & NDPS Act,
Chennai 104.

3.The Judicial Magistrate -II, Thiruvallur.

4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
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23.01.2023