



Crl.M.P.No.5510 of 2023
in Crl.RC.No.361 of 2023

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V.SIVAGNANAM.J,

This modification petition has been filed to modify the condition imposed by this Court, vide order dated 14.03.2023 in Crl.R.C.No.361 of 2023 directing the petitioner to execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) before the learned Judicial Magistrate, Sulur.

2.The learned counsel for the petitioner would submit that this Court, by an order dated 14.03.2023, directed the petitioner to return the vehicle to him on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) before the learned Judicial Magistrate, Sulur. When the petitioner appeared before the trial Court for getting interim custody of the vehicle, the learned Judge insisted to produce the solvency certificate, since the amount mentioned in the order is more than Rs.50,000/- by citing Rule 14 of the Criminal Rules of Practice, 2019. Hence, this petition is filed for modification.



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3. When the matter is taken up for hearing, the learned Government Advocate (Crl.Side) appearing for the respondent Police would submit that this Court ordered the petitioner only to execute a bond for a sum of Rs.50,000/- for interim custody of the vehicle concerning the worth of the vehicle involved in this case and not to produce any sureties to that effect.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

5. On perusal of the records, it is noticed that this Court, by order dated 14.03.2023, directed the petitioner to return the vehicle to him on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees fifty thousand only) before the learned Judicial Magistrate, Sulur. Since the amount mentioned in the order is more than Rs.50,000/-, the learned trial Judge insisted to produce the solvency



certificate at the time of getting interim custody of the vehicle before the trial Court by relying Rule 14 of the Criminal Rules of Practice, 2019.

Rule 14 of the Criminal Rules of Practice, 2019 runs as follows:

14. Verification of solvency of sureties:

(1) The responsibility for accepting the surety as solvent for the required amount is primarily that of the presiding officer of the Court and he should discharge it himself by making such summary enquiry as in the circumstances of the case, he may think fit.

(2) The production of a solvency certificate from the Revenue authorities is not always essential and may be insisted upon only in cases of doubt and cases involving large sums.

(3) For the purpose of determining whether the surety is solvent or not, the Court may, if it thinks fit, accept affidavits in proof of the facts contained therein relating to the solvency of the sureties, or may make such further inquiry as it deems necessary.

(4) Insistence upon the possession of immovable property by surety for bond of small amounts not exceeding Rs.15,000/- would cause serious



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inconvenience to the accused in procuring a surety. The Judge or Magistrate may, therefore, in suitable cases, where the amount of bond does not exceed Rs.15,000/-, assess the solvency of the surety even upon the basis of his movable property and assets. The intending surety should present his application for suretyship in Judicial Form No.46. The Head Ministerial Officer should check the proofs accompanying the applications and thereafter, place the matter before the Judge or Magistrate with his remarks. However, in the Court of the Metropolitan Magistrate, if the amount of bond exceeds Rs.15,000/-, the Head Ministerial Officer should check proofs and submit report to the Magistrate. The Judge or Magistrate should consider the application in the light of the proofs produced and examine the surety personally and may also call for further and better proof. The Judge or Magistrate, after holding a summary enquiry, may pass an order either accepting the surety or rejecting the application.

(5) To avoid abscondence of accused due to furnishing of bogus surety bond by a stock surety, in addition to the proof as mentioned in sub-rule



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(4) of the format of application of surety, the surety, in all cases in which the offence is serious and the sentence provided is of more than 7 years imprisonment or the cases under the special The Criminal Rules of Practice, 2019 13 13 enactments like the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act 61 of 1985), the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Central Act 33 of 1989), the Protection of Children from Sexual Offences Act, 2012 (Central Act 32 of 2012), the Unlawful Activities (Prevention) Act, 1967 (Central Act 37 of 1967), the Prevention of Money Laundering Act, 2002 (Central Act 15 of 2003), etc. shall produce copy of at least one of the following documents:?

- (i) Passport;*
- (ii) Identity Card issued by the Election Commission of India;*
- (iii) Permanent Account Number Card, i.e., PAN Card issued by the Income Tax Department;*
- (iv) ATM/Debit Card or Credit Card issued by any nationalised or private*



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bank of standing at the national level, having photograph of the holder thereon may be accepted in conjunction with any other authentic document like telephone bill or electric bill as proof of residential address;

(v) Identity Card issued by the Government authorities or the Public Statutory Corporations;

(vi) Any such document, which is ordinarily issued by an authority after due verification of the identity of the person and his address, which the Judge or the Magistrate may think just and proper, in the interests of justice, by recording specific reasons.

Rule 13 speaks about the surety, which runs as follows:

13. Surety.— An advocate shall not be accepted as surety, unless the accused is his blood relative.

The above Rule 13 pertains to sureties. In this case, the petitioner is not a surety to execute a personal bond for a sum of Rs.50,000/- before the learned Judicial Magistrate, Sulur concerning the worth of the vehicle to



be given as an interim custody. However, the learned Magistrate misunderstood Rule 14 of the Criminal Rules of Practice, 2019 and insisted the petitioner to produce the solvency certificate. This Court has only directed the petitioner to execute a personal bond for a sum of Rs.50,000/- before the learned Judicial Magistrate, Sulur and not to produce any solvency certificate. Therefore, this modification sought by the petitioner cannot be granted. The learned Judicial Magistrate, Sulur is directed to get a personal bond from the petitioner for a sum of Rs.50,000/- as mentioned in the order dated 14.03.2023 in the judicial Form-46 and to grant interim custody of the vehicle involved in this case.

6. With the above direction, this modification petition is closed.

20.04.2023

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Note: Issue order copy on 25.04.2023



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