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Crl.O.P.No.12199 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.12199 of 2023

Shanmugam

... Petitioner

Vs.

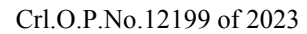
State rep. by
The Inspector of Police,
H-4, Korukupet Police Station,
Chennai.
(Crime No.291 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.,
pleased to set aside/modify the condition in order dated 17.04.2023 in
Crl.M.P.No.8804 of 2023 on the file of the learned Principal Session Judge,
Chennai.

For Petitioner : Mr.N.Kamaraj

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl.Side)



This Criminal Original Petition is filed to set aside/modify the condition in order dated 17.04.2023 in CrI.M.P.No.8804 of 2023 on the file of the learned Principal Session Judge, Chennai.

2. On a complaint by one Meena/de facto complainant, the petitioner has been arrested on 7.2.2023 in Crime No.291 of 2022 for the offences punishable under Sections 406, 420 of IPC and Section 76(1) of Chit Funds Act read with 34 of IPC for having collected money by conducting unregistered chit fund and cheated the de facto complainant and others. The petitioner moved for bail before the learned XV Metropolitan Magistrate, George Town, Chennai by filing an application in CrI.M.P.No.1717 of 2023 and bail was granted by the learned Magistrate by order dated 28.02.2023 with a condition to deposit a sum of Rs.5,00,000/- to the credit of Crime No.291 of 2022. Seeking to modify such a condition, the petitioner had filed an Application before the learned Principal Sessions Judge, Chennai, in CrI.M.P.No.8804 of 2023 and the same was dismissed by order dated 17.04.2023 and thereby, the petitioner has come up with the present petition.



Crl.O.P.No.12199 of 2023

WEB COPY

3. Learned counsel appearing for the petitioner submitted that the petitioner is an indigent person and he is unable to deposit such a huge sum of Rs.5,00,000/- and thereby, he is suffering incarceration till date despite the fact that he has been granted bail on 28.2.2023 itself. He further submitted that the investigation has been completed and final report has been filed and the same has been taken on file in C.C.No.665 of 2023 on the file of XV Metropolitan Magistrate, George Town, Chennai. He also submitted that the main accused has been granted statutory bail with a condition to deposit a sum of Rs.25,000/- alone and thereby he seeks for modification of the onerous condition imposed upon him to deposit such a huge sum of Rs.5,00,000/-.

4. Heard the learned Government Advocate (Crl. Side) appearing for the respondent police.

5. The Apex Court in number of decisions, has held that imposition of onerous condition while granting bail is nothing but denial of bail. In ***Sakthivel Vs. Inspector of Police, Belukurichi Police Station, Namakkal District*** (2015 (2) MWN (Cr.) 438) this Court has held that the



CrI.O.P.No.12199 of 2023

bail condition should be executable and it should not be onerous and oppressive in nature. In *Navaneetha Krishnan Vs. Inspector of Police, Natrampalli Police Station Vellore District* (2015 (2) MWN (Cr.) 53), this Court has observed that the conditions which are in the nature of onerous and which could not be complied with by the accused, would be like granting bail by one hand and taking it away by another hand.

6. In the case on hand, the Court below had directed the petitioner to deposit a sum of Rs.5,00,000/- to the credit of the crime number as a condition for grant of bail. The law is well settled that bail condition should be executable and it should not be onerous and oppressive in nature. Moreover, it is brought to the notice of this court that the main accused has been granted statutory bail with a condition to deposit a sum of Rs.25,000/- alone.

7. In such circumstances, in the opinion of this Court, the condition pointed out by the petitioner, imposed by the lower Court below, is onerous warranting this Court's interference. Accordingly, the condition imposed upon the petitioner by the XV Metropolitan Magistrate, George Town,



Crl.O.P.No.12199 of 2023

Chennai, in Crl.M.P.No.1717 of 2023 dated 28.02.2023 to deposit a sum of Rs.5,00,000/- as a condition precedent for grant of bail, as confirmed by the Principal Session Judge, Chennai, in Crl.M.P.No.8804 of 2023 dated 17.04.2023, is set aside and the condition imposed by the Court below to execute a bond for a sum of Rs.10,000/- with two sureties for like sum, is modified as under;

"The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties each for a likesum to the satisfaction of the learned XV Metropolitan Magistrate, George Town, Chennai.

The other condition imposed by the Court below shall remain unaltered.

7. Accordingly, this Criminal Original petition is ordered.

01.06.2023

ksa-2/ssk.

Note: Issue order copy on 05.06.2023

A.D.JAGADISH CHANDIRA.,J.



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Crl.O.P.No.12199 of 2023

ksa2/ssk.

To

1.XV Metropolitan Magistrate, George Town, Chennai.

2.The Inspector of Police,
H-4, Korukupet Police Station,
Chennai.

3. Central Prison, Puzhal

4.The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.12199 of 2023

01.06.2023