



WEB COPY



CrI.O.P.No.12848 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM

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

CrI.O.P.No.12848 of 2023

Sameer

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
Anupparpalayam Police Station,
Tiruppur.
(Crime No.216 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439(1)(b) of Cr.P.C., pleased to modify the condition of deposit amount from 30% into 10% of the amount Rs.54,57,721.50/- in the order passed by the learned Ist Additional District and Sessions Judge, Vacation Judge, Tiruppur in CrI.M.P.No.984 of 2023 dated 19.05.2023.

For Petitioner : Mr.P.Thinesh

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



Crl.O.P.No.12848 of 2023

WEB COPY

ORDER

This Criminal Original Petition is filed to modify the condition of depositing of 30% of the amount of Rs.54,57,721.50/-, imposed by the learned Ist Additional District and Sessions Judge, Vacation Judge, Tiruppur in Crl.M.P.No.984 of 2023 dated 19.05.2023.

2. The learned counsel for the petitioner submitted that the petitioner was arrested and remanded to judicial custody on 28.04.2023 in Crime No.216 of 2022 for the offences under Sections 409 and 420 IPC. Thereafter, the petitioner had filed an application for bail before the Ist Additional District and Sessions Judge, Vacation Judge, Tiruppur in Crl.M.P.No.984 of 2023 and the learned Judge, by order dated 19.05.2023, had granted bail to the petitioner with certain conditions and one of the condition was that the petitioner has to deposit 30% of the alleged cheated amount of Rs.54,57,721.50/-. He would submit that a very reading of the FIR would show that the case of civil transaction between the parties, has been converted into criminal offence. He further submitted that though the petitioner has got a good case for trial, the learned counsel for the petitioner had represented before the Court below that the petitioner was ready to



Crl.O.P.No.12848 of 2023

deposit 20% of the said amount, whereas the Court below had directed the petitioner to deposit 30% of the said amount. However, due to the long incarceration, the petitioner is unable to raise funds and comply with the said condition and thereby, despite bail being granted, the petitioner is still languishing in jail. He would submit that the Hon'ble Apex Court in several decisions had held that onerous condition of deposit of amount pending investigation cannot be imposed.

3. At this juncture, the learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the petitioner himself had offered to deposit 20% of the alleged cheated amount and he would oppose for modification of the said condition.

4. In reply, the learned counsel for the petitioner submitted that though such an offer had been made by the petitioner, since the petitioner is in judicial custody for more than 40 days, the family members of the petitioner are unable to raise such a huge amount of 20% of the said amount. However, without prejudice, the petitioner is ready to deposit 10% of the alleged amount and he prays for modification of the said condition.



Crl.O.P.No.12848 of 2023

5. Considering the above facts and circumstances of the case and the submissions of the learned counsel on either side, the condition in respect of depositing of 30% of the amount of Rs.54,57,721.50/-, imposed by the learned Ist Additional District and Sessions Judge, Vacation Judge, Tiruppur in Crl.M.P.No.984 of 2023 dated 19.05.2023, **is modified to the effect that “the petitioner shall deposit 10% of the amount of Rs.54,57,721.50/- before the Judicial Magistrate No.III, Tiruppur.**

6. With the above modification, this Criminal Original Petition stands ordered. The other conditions shall remain unaltered.

09.06.2023

ksa-2



CrI.O.P.No.12848 of 2023

WEB COPY

To

1. Ist Additional District and Sessions Judge,
Vacation Judge, Tiruppur
2. The Judicial Magistrate III, Tiruppur
3. The Inspector of Police,
Anupparpalayam Police Station,
Tiruppur.
4. Central Prison,
Tiruppur.
5. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.12848 of 2023

A.D.JAGADISH CHANDIRA.,J.

ksa-2

Crl.O.P.No.12848 of 2023

09.06.2023