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CRL.O.P. No.15067 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM

THE HONOURABLE MR. JUSTICE **G.CHANDRASEKHARAN**

CRL.O.P. No.15067 of 2023

Kumar @ Chandrakumar

... Petitioner

Vs.

The State rep. by
Inspector of Police,
District Crime Branch,
Nagapattinam District.
Crime No.2 of 2023

... Respondent

Prayer: Criminal Original Petition filed under Section 439(1)(b) Cr.P.C. to modify the condition that “[e] the petitioner shall return the sum of Rs.7,25,000/- to the de-facto complainant within 10 days as promised from the date of release on bail...” imposed in bail order dated 24.02.2023 made in CrI.M.P.No.700 of 2023 on the file of the Ld. Judicial Magistrate Court I, Nagapattinam.

For Petitioner : Mr.C.Harish

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

ORDER

This petition has been filed for modification of the condition imposed by the learned Judicial Magistrate Court I, Nagapattinam, in CrI.M.P.No.700 of 2023 dated 24.02.2023, directing the petitioner to return the sum of Rs.7,25,000/-



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to the de-facto complainant within 10 days as promised from the date of release on bail.

2. At the time of filing bail petition, petitioner's wife gave an oral undertaking that a sum of Rs.7,25,000/- would be paid to the *de-facto* complainant once the petitioner is released on bail and on the said undertaking, bail was granted to the petitioner. The petitioner was subsequently released on bail.

3. It is the submission of the learned counsel for the petitioner that the petitioner is not able to mobilize Rs.7,25,000/-, therefore he wants modification of this condition.

4. Reading of the bail order shows that, with a condition to pay Rs.7,25,000/- the bail was granted to the petitioner, primarily for the reason of undertaking given by the petitioner's wife. It is settled proportion of Law, that such condition cannot be imposed in a bail petition. It is also informed that the *de-facto* complainant filed a petition for cancellation of bail in Crl.M.P.No.2174 of 2023.

5. Therefore, this Court set asides the condition imposed by the learned Judicial Magistrate Court I, Nagapattinam, in Crl.M.P.No.700 of 2023 dated 24.02.2023, to pay a sum of Rs.7,25,000/- to the *de-facto* complainant in condition 4(e). The learned Judicial Magistrate I, Nagapattinam is directed to dispose of the petition pending for cancellation of bail on merits and in accordance with law.



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6. Accordingly, this Criminal Original Petition is disposed of.

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Index : Yes/No

Internet : Yes

Speaking/non speaking order

mpl

To

1. The Judicial Magistrate I, Nagapattinam.
2. Inspector of Police,
District Crime Branch,
Nagapattinam District.
3. The Public Prosecutor,
High Court, Madras.



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G.CHANDRASEKHARAN, J.

mpl

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