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CrI.O.P.No.20197 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.09.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

CrI. O.P. No.20197 of 2023

Rajendran @ Raja
Petitioner

..

Vs.

The State rep. by:
The Inspector of Police,
AWPS Sooramangalam,
Crime No.25 of 2022.

..Respondent

PRAYER : Criminal Original Petition has been filed under section 439(1) (b) of Criminal Procedure Code to modify the condition imposed in Crime No.251 of 2023 in Crime No.25 of 2022 dated 24.03.2023 on the file of the Sessions Judge, Principal Court, Salem.

For Petitioner	: Mr.S.Prabhakar
For Respondent	:Mr.S.Rajakumar
	Additional Public Prosecutor

ORDER

The petitioner herein arrested by the respondent police in Crime No.25 of 2022 for the alleged offence under Section 506(i) IPC and Section 5(1), 5(m), 5(n), 5(u) r/w 6 of POSCO Act, 2012 on 18.08.2022.



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When he sought bail before the learned Sessions Judge, Principal Court, Salem in Crl.M.P. No.251 of 2023, the trial Court had granted bail by order dated 25.03.2022, taking into consideration that the petitioner being in prison for more than 218 days, investigation is completed and final report had taken on file in Spl.SC. No.9 of 2023 on the following condition:

“6....the Petitioner shall be released on bail on execution of a bond for Rs.10,000/- with two sureties to the like sum each with proper solvency certificates to the satisfaction of the Additional Mahila Court, Salem and on condition that one of the surety should be blood related to the petitioner. Further the petitioner is directed to appear before this Court on 17.04.2023 and as the subsequent hearings.”

The petitioner herein though granted bail was not able to furnish sureties and therefore came before this Court for modification of the bail condition.

2. In this petition for modification, the petitioner has stated that he is economically poor and he does not have any valuable property and when the surety was submitted before the Additional Mahila Court, Salem, the learned Sessions Judge insisted for solvency certificates which he is unable to produce. Hence seeks for modification of the condition.

3. The Criminal Rules of Practice, 2019 which came into force



from 01.01.2020, under Chapter III Rule 12 speaks about Bail and Sureties, which states that the Court while granting bail and imposing conditions on sureties, it shall take note of the financial capacity of the accused and if the accused is indigent or unable to furnish sureties, he may be released on their own bond after taking into consideration, the nature of the offence and the possibility of the accused not absconding.

4. Further, Rule 14 also speaks about financial capacity of the accused and the sureties and verification of the solvency in respect of the sureties. Rule 14(4) specifically states that

“14.....

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

5. It is a case under POSCO Act, the gravity of the offence warrants strict condition to ensure the presence of the accused. At the same time, the financial situation of the accused is also relevant. Learned counsel for the petitioner states that the petitioner is a daily wager, has no means worth mentioning. The Sessions Court which has

Dr.G.JAYACHANDRAN, J.



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granted bail has taken note of the fact and has said that one of the surety must be blood relative to ensure the presence of the accused in the course of the trial and has imposed only Rs.10,000/- as surety.

6. In the light of the Rule 15 & 16 of Criminal Rules of Practice, 2019 insistence of solvency certificate of movable property is not required in this case and therefore, the Sessions Court, Salem is directed to accept the bond of the surety for a like sum of Rs.10,000/- for insisting upon solvency certificate and test a surety in accordance with law. With this direction, this petition for modification is disposed of.

01.09.2023

Internet : Yes/No

Index: Yes/No

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To

- 1.The Sessions Judge, Principal Court, Salem.
- 2.The Inspector of Police, AWPS Sooramangalam.
- 3.The Pubic Prosecutor,
High Court of Madras, Chennai.

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