



CrI.O.P.No.21531 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.21531 of 2023

Ezhumalai
S/o.Pachaiyappa Gounder

... Petitioner

Vs.

The State represented by its
The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.
Crime No.63/2023

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed by Principal Sessions Judge, Villupuram, in C.M.P.No.2137 of 2023, dated 26.06.2023 and modify the condition that the petitioner shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) as cash security before the lower Court.

For Petitioner : Mr.S.Saravana Kumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed challenging the order passed by the Court below in C.M.P.No.2137 of 2023, dated 26.06.2023, dismissing the petition filed for modification of condition imposed by the Court below in C.M.P.No.1799 of 2023 while granting anticipatory bail to the petitioner.

2. Heard Mr.S.Saravana Kumar, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

3. The petitioner apprehending arrest by the respondent police for offences u/s.294(b), 352, 427, 506(ii) and 379 IPC filed anticipatory bail petition. The main allegation against the petitioner is that the petitioner and the *de facto* complainant are adjacent land owners and there was a dispute between both the parties and a suit is also pending in O.S.No.10 of 2023. According to the *de facto* complainant, the petitioner along with his family members abused the *de facto* complainant in filthy language and also demolished the compound wall by using a JCB vehicle and thereby caused loss to the *de facto* complainant to the tune of



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Rs.2,50,000/-.

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4. Learned Principal Sessions Judge, Villupuram, attempted to amicably settle the dispute between the parties and hence, the parties were referred for mediation. The parties were not able to reach any settlement. Hence, the Court below while granting anticipatory bail to the petitioner, imposed certain conditions. One such condition imposed by the Court below was that the petitioner shall deposit a sum of Rs.1,50,000/- to the credit of Crime No.63 of 2023.

5. The petitioner filed a petition in C.M.P.No.2137 of 2023 seeking for modification of condition. The same came to be dismissed by the Court below by order dated 26.06.2023. Aggrieved by the same, the present petition has been filed before this Court.

6. In the considered view of this Court, while granting bail to an accused, cash security should not be insisted as a condition. The law on this issue was clarified by the Apex Court in ***Dilip Singh v. State of Madhya Pradesh and another [(2021) 2 SCC 779]***.



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7. It is seen from records that there is a civil dispute between the parties and the allegation against the petitioner is that he had demolished the compound wall and caused loss to the *de facto* complainant. This allegation requires investigation and the loss that is claimed by the *de facto* complainant cannot be taken into consideration and the petitioner cannot be insisted to deposit cash as a condition for grant of anticipatory bail.

8. In the light of the above discussion, the condition imposed by the Court below to deposit sum of Rs.1,50,000/- is set aside and the other conditions shall stand as it is. The petitioner shall surrender before the Judicial Magistrate II, Villupuram and comply with the other conditions imposed by the Court below within a period of one week from the date of receipt of a copy of this order.

This Criminal Original Petition is disposed in the above terms.

19.09.2023

Note to office: Issue order copy by 21.09.2023



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Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

- 1.The Principal Sessions Judge,
Villupuram.
- 2.The Judicial Magistrate II,
Villupuram.
- 3.The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.
Crime No.63/2023
- 4.The Public Prosecutor,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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