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CrL.OP.No.15874 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrL.OP.No.15874 of 2024

Naresh Kumar

... Petitioner

Vs.

The State Rep., by
Inspector of Police,
Salem Steel Plant,
Salem District.
Cr.No.603 of 2023

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to modify the condition that “ 2. For due observation of above conditions petitioner shall execute a bond for Rs.2,00,000/- with two sureties for like sum” imposed in the order dated 12.06.2024 made in CrL.MP.No.1634 of 2024 by the learned Judicial Magistrate-I, Salem.

For Petitioner : Mr. C.Harish

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (CrL.Side)



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ORDER

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2. The learned counsel for the petitioner submits that since the trial Court insists upon solvency of the surety which is onerous condition as far as the petitioner is concerned, seeks modification.

3. The impugned order passed by the trial Court while considering the application filed under Sections 451 and 457 of Cr.P.C imposed the following conditions:

“1. Petitioner shall produce the property as and when required by this Court or superior Courts.

2. For due observation of above conditions petitioner shall execute a bond for Rs.2,00,000/- with two sureties for like sum.



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3. *Petitioner shall take colour photograph of the property and file the Original R.C.Book and print in the Court (Original R.C.Book and one print to Court, one to concern police C.D File and one to the petitioner). On the reverse side of the photographs petitioner shall make an endorsement to the effect that property in the photograph is that of case property and petitioner will not dispute the identity of property in the photograph at the time of trial. The Head Clerk of this Court shall attest the photograph to the effect that the image in the photograph is that of the case property”.*

4. This Court heard a case on earlier to decide the similar issue in which, the Court after hearing the learned Government Advocate (CrL.Side) has passed the following order in CrL.OP.No.14242 of 2024 dated 26.04.2024.

“ 3. *The learned Government Advocate (CrL.Side) appearing for the respondent police states that the bond/solvency certificate will arise in the case of bail. Criminal Rules of Practice, 2019, under Chapter III speaks about the bail and surety, in which, there is a provision under Rule 14(4) that if the amount of bond exceeds Rs.15,000/- the*



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Head Ministerial Officer should check proof and submit the report to the Magistrate regarding the solvency. This condition may not apply to the return of property pending enquiry as contemplated under Rule 257 of Criminal Rules of Practice which falls under chapter XXXII. Further, submit that Form 50 to the Criminal Rules of Practice provides the format of the bond to be executed by the petitioner and the surety and in that format also there is no indication that the bond amount should be supported by solvency certificate.

4. This Court on perusing the above and provision and on perusing the order passed by the Court below under Section 451 Cr.P.C finds that there is no mandate in the said order directing the petitioner herein to furnish solvency to an extent of Rs.1,20,000/-. Mere execution of bond as per the format found in Form 50 is sufficient. Hence, the petitioner's apprehension is hereby dispelled by this clarification regarding the allegations that the condition is very stringent and exorbitant.

The same analogy is applied to the present case also. Therefore, taking note of the observations made by this Court and extracted above, the trial



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Court shall accept the bond without insisting of solvency certificate and test the sureties in accordance with law and proceed further.

5. With the above observation, this Criminal Original petition is disposed of.

25.07.2024

Vv

To

1.The Inspector of Police,
Salem Steel Plant,
Salem District.

2.The Public Prosecutor,
High Court of Madras.



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Dr.G.JAYACHANDRAN,J.

Vv

CrL. O.P. No.15874 of 2024

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