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Crl.OP.No.23222 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.23222 of 2024

N.Muthu

.. Petitioner

Vs.

The State Rep by
Inspector of Police,
EDF-I, Team II,
Central Crime Branch,
Egmore, Chennai.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C to set aside the condition No.i, iv and imposed in the order dated 20.04.2023 made in C.M.P.No.8225 of 2023 on the file of the learned Metropolitan Magistrate, for Exclusive Trial of CCB Cases and CBCID Metro Cases, Egmore, Chennai-08 and release the property in B.No.1757/2022 (white colour) Maruti Suzuki Swift Dzire Car bearing Regn.No.TN-55-AM-3195 by allowing this Criminal Original Petition.

For Petitioner : Mr.R.Prabakar

For Respondent : Mr.K.M.D.Muhilan,
Government Advocate (Crl.Side)



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ORDER

The petitioner herein sought for temporary custody of the Maruti Suzuki Swift Dzire Car bearing Regn.No.TN-55-AM-3195 was considered by the Court below and granted temporary custody on the following conditions:

“ i. The petitioner shall execute a bond of Rs.2,00,000/- (Rupees Two Lakhs only) along with two sureties each for the same amount to the satisfaction of this Court.

ii. The petitioner shall file an affidavit of undertaking not to sell or otherwise alienate the vehicle and produce the same before this Court as and when required.

iii. The petitioner shall take photograph and photocopy of case properties and counter signs on the photocopy and produce the same before this Court.

iv. The Original Registration Certificate of the said vehicle bearing Regn.No.TN-55-AM-3195 should be surrendered before this Court”.

It is stated that the condition to execute bond for Rs.2,00,000/- with two sureties for a likesum is onerous. Since the value of the car itself is only



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Rs.2.50,000/ to Rs.3,00,000/-, the present petition is filed to modify the condition No.1 as well as Condition No.4 which has directed the petitioner to surrender the original RC Book.

2. On considering the submissions made by the learned counsel for the petitioner, this Court finds that the petitioner apprehends that the execution of bond for Rs.2,00,000/- must be supported by a solvency certificate. Already while obtaining bail, he has handed over original title deed of his property worth about Rs.50,00,000/- for which, execution of bond with solvency certificate with Rs.2,00,000/- is onerous.

3. This Court had an occasion to consider similar plea in case of return of vehicle for offence under Sections 451 and 457 of Cr.P.C and has clarified that as far as the condition to execute bond in respect of return of vehicle, the bond need not be supported by solvency certificate, since return of property pending enquiry is contemplated under Rule 257 of Criminal Rules of Practice along with Form 50, whereas, the rule which mandates bond above Rs.15,00,000/- must be supported by solvency certificate is only confine to bail and anticipatory bail under Rule 14 of Criminal Rules of Practice. Therefore, the learned Judicial



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Magistrate while testing the surety in compliance of the order passed under Sections 451 and 457 of Cr.P.C need not insists for solvency certificate, whereas the other condition No.4 which directs the petitioner to deposit the original RC Book, this Court finds no illegality to interfere in the order of the court below.

4. With this above clarification, this Criminal Original Petition is disposed of.

23.09.2024

Vv

To

1. The Metropolitan Magistrate
for Exclusive Trial of CCB Cases
and CBCID Metro Cases,
Egmore, Chennai-08
2. The Inspector of Police,
EDF-I, Team II,
Central Crime Branch,
Egmore, Chennai.
3. The Public Prosecutor,
High Court of Madras, Chennai.



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Dr.G.JAYACHANDRAN,J.

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