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Crl.O.P.No.21235 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.21235 of 2024

Muralikrishnan

... Petitioner

Vs.

State Rep.by
The Inspector of Police,
Deevattipatti Police Station,
Salem District.
(Crime No.617 of 2023)

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, pleaded to set aside and modify the condition (2) to execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand) with two private sureties for likesum each passed in C.M.P.No.16 of 2024 dated 01.07.2024 on the file for the learned Judicial Magistrate Court, Omalur in Crime No.617 of 2023 on the file of the respondent police.

For Petitioner : Mr.C.S.Saravanan

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

ORDER

This Criminal Original Petition is filed to modify the condition imposed by the trial Court for return of vehicle to the petitioner for temporary custody.



2. The learned counsel appearing for the petitioner contends that the trial Court has imposed condition to execute a bond for Rs.25,000/- and two sureties. Therefore, the Court below insisted for solvency certification for the surety relying upon the Rules of Practice. It is appropriate to state that this Court on earlier occasions has clearly clarified that the condition of furnishing the solvency certificate for the sureties will apply only in case of bail and not in case of return of property. Therefore, for the easy reference, the observation made by this Court is extracted below:-

“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 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



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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.”

4. Hence, this Criminal Original Petition is disposed of with the direction to the trial Court to accept the surety without solvency certificate.

02.09.2024

Index : Yes/No
Neutral Citation : Yes/No
rpl



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To
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- 1.The Judicial Magistrate Court, Omalur
- 2.The Inspector of Police,
Deevattipatti Police Station,
Salem District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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