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Crl.O.P.No.27599 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

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THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.27599 of 2024

Ishwar Singh

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
Veeraganur Police Station,
(Crime No.48 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 582 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the impugned docket order passed by the learned Principal District and Sessions Judge, Salem in Crl.M.P.SR.No.13403 of 2024 in CMP No.2690 of 2024 dated 22.10.2024 and consequently to modify the condition imposed in the anticipatory bail order in CMP No.2690 of 2024 dated 17.10.2024 that the petitioner “shall depositing a sum of Rs.25,000/- (Rupees twenty five thousand only) into the credit of Aram Seya Virumbu, A/c No.423150050800264, IFSC Code:TMBL0000423, Tamil Nadu Mercantile Bank, Ambasamudram and shall produce the receipt before the Judicial Magistrate No.I, Attur.

For Petitioner : Mr.C.R.Gokulvisvas

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was apprehending arrest at the hands of the respondent police for the alleged offences under Sections 273 and 328 IPC and Sections 7(1) and 20(2) of Cigarette and Other Tobacco Products Act in Crime No.48 of 2024, had been enlarged on anticipatory bail vide order dated 17.10.2024 in Crl.M.P.No.2690 of 2024 by the Principal Sessions Judge(IC), I Additional Sessions Judge, Salem, and had filed Crl.M.P.SR.No.13403 of 2024 seeking modification of the condition imposed, in which, the learned trial Judge, vide order dated 22.10.2024 had observed that “this petition is not maintainable in this Court” and thereby seeking to set aside the said order and modify the condition imposed on him, the above criminal original petition has been filed.

2.The learned counsel appearing for the petitioner would submit that though the petitioner was enlarged on anticipatory bail vide order dated 17.10.2024 in Crl.M.P.No.2690 of 2024 by the Principal Sessions Judge(IC), I Additional Sessions Judge, Salem, on condition to deposit a sum of Rs.25,000/- (Rupees twenty five thousand only) to the



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credit of Aram Seya Virumbu, A/c No.423150050800264, IFSC Code:TMBL0000423, Tamil Nadu Mercantile Bank, Ambasamudram and produce the receipt before the Judicial Magistrate No.I, Attur, due to his poor financial status and ill health, the petitioner is unable to raise such a huge amount and thereby, he was unable to comply with the condition imposed and thereby, he had filed CrI.M.P.SR.No.13403 of 2024 on 22.10.2024 seeking modification of the condition imposed, in which, the learned trial Judge, vide order dated 22.10.2024 had observed that “this petition is not maintainable in this Court”. He would further submit that the Apex Court as well as this Court had repeatedly held that the Criminal Courts, exercising jurisdiction to grant bail/anticipatory bail, are not expected to act as a recovery agents to realise the dues of the complainant, and that too, without any trial and thereby, he would seek for modification of the condition.

3.Learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is 19 years old boy and A1 is the main accused and he was enlarged on anticipatory bail by complying with the conditions imposed on him and the petitioner is only



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A2 and since the said amount has not been deposited by the petitioner, he is unable to furnish sureties.

4.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

5.Considering the submissions made, the order passed by the learned Principal Sessions Judge(IC), I Additional Sessions Judge, Salem, in Crl.M.P.SRNo.13403 of 2024 on 22.10.2024 is set aside and the condition No.5(i) imposed by the trial Court vide order dated 17.10.2024 in Crl.M.P.No.2690 of 2024 is modified to the following effect:

“i)in the event of arrest of the petitioner by the respondent/police or on his surrender before the learned Judicial Magistrate No.1, Attur within 15 days from the date of this order and on such arrest or surrender the petitioner is ordered to be enlarged on anticipatory bail on **depositing a sum of Rs.5,000/-(Rupees five thousand only) into the credit of Aram Seya Virumbu, A/c No.423150050800264, IFSC Code: TMBL0000423, Tamil Nadu Mercantile Bank, Ambasamudram and shall produce the receipt before**



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the Judicial Magistrate No.I, Attur and on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.1, Attur;”

8.It is made clear that the other conditions imposed by the court below remain unaltered. The Criminal Original Petition is ordered accordingly.

07.11.2024

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To

1. The Principal District and Sessions Judge, Salem.
- 2.The Judicial Magistrate No.I, Attur.
3. The Inspector of Police, Veeraganur Police Station, Salem District.
- 4.The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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