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Crl.O.P.No.27927 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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

Crl.O.P.No.27927 of 2024

S.Devika

... Petitioner

Vs.

State rep. by
The Inspector of Police,
K-1, Sembium Police Station,
Chennai – 600 011.
(Crime No.212 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 483 (1) (b) of BNSS Act 2023, pleaded to modify the condition mentioned in [b] in Crl.M.P.No.19181 of 2023 dated 08.08.2023 passed by the Hon'ble Principal Sessions Judge, Principal Sessions Court at Chennai in which the same was extended by the Hon'ble Principal Sessions Judge, Principal Sessions Court at Chennai in Crl.M.P.No.29228 of 2024 dated 19th October 2024.

For Petitioner : Mr.S.Vijayaraghavan

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

ORDER

This petition has been filed to modify the condition mentioned in (b) in



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Crl.M.P.No.19181 of 2023 dated 08.08.2023 passed by the Principal Sessions Judge, Principal Sessions Court at Chennai in Crl.M.P.No.29228 of 2024 dated 19.10.2024.

2.The learned counsel for the petitioner would submit that the petitioner is a sole accused in Crime No.212 of 2023, which was registered on 08.06.2023 by the respondent police for the offence under Sections 406 and 420 IPC, based on the complaint given by the defacto complainant. The learned counsel for the petitioner would submit the case of a financial dispute has been projected as a case of criminal breach of cheating. The learned counsel would further submit that the defacto complainant has also admitted that the petitioner has received an amount of Rs.16,50,000/- from the defacto complainant and only returned Rs.8,00,000/- and the petitioner has to pay remaining amount of Rs.8,50,000/- to the defacto complainant and that the Principal Sessions Judge at Chennai has directed the petitioner to deposit a sum of Rs.4,25,000/- to the credit of Crime No.212 of 2023. The learned counsel would further submit that the Apex Court as well as this Court had consistently deprecated the practise of the Courts in imposing of a condition to deposit the quantum of money that is alleged to have been cheated while



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granting bail/anticipatory bail and thereby he would seek for modification of condition.

3.The learned Government Advocate (Crl.Side) for the respondent while objection for grant of bail would submit that the petitioner has cheated the defacto complainant to the tune of Rs.8,50,000/- and he would submit that the petitioner had induced the defacto complainant on the false assurance of getting a job in the Coast Guard and received a sum of Rs.16,50,000/- and the petitioner has repaid only Rs.8,00,000/- and refused to repay the balance amount of Rs.8,50,000/-. Hence, he opposed for modifying the condition.

4.The learned counsel for the defacto complainant would submit that the defacto complainant is a widow and that the petitioner had induced the defacto complainant on the false promise of obtaining job in Coast Guard and cheated her to the tune of Rs.16,50,000/- and she had repaid an amount of Rs.8,00,000/- and refused to pay the remaining amount of Rs.8,50,000/-. Hence, she opposed for modifying the condition.

5.I have heard the learned counsel for the petitioner, defacto complainant and the learned Government Advocate and I have perused the



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materials available on record.

6.It is seen that the learned Principal Sessions Judge, Chennai, while granting anticipatory bail to the petitioner on 08.08.2023, has imposed certain conditions, including a condition to deposit a sum of Rs.4,25,000/- (Rupees four Lakh Twenty Five Thousand only) to the credit of the Crime No.212 of 2023 before the said Court and the final order in respect of the amount will be passed at the end of the criminal proceedings by the trial Court. The Apex Court as well as this Court had consistently depreciated the practice of Courts while granting anticipatory bail imposing of a condition to deposit the quantum of money that was allegedly cheated. Despite the grant of anticipatory bail to the petitioner on 08.08.2023, due to the onerous condition to deposit Rs.4,25,000/- (Rupees four Lakh Twenty Five Thousand only) to the credit of the Crime No.212 of 2023 imposed by the learned Principal Sessions Judge, Chennai, the petitioner is unable to execute sureties.

7.Considering the above facts and circumstances, the condition No.6(b) in Crl.M.P.No.19181 of 2023 dated 08.08.2023 passed by the Principal



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Sessions Judge, Principal Sessions Court at Chennai in which the same was extended by the Hon'ble Principal Sessions Judge, Principal Sessions Court at Chennai in Crl.M.P.No.29228 of 2024 dated 19.10.2024 are hereby set aside. The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned, within a period of two weeks from the date of receipt of a copy of this order. The other conditions imposed by the learned Principal Sessions Judge, Chennai vide order dated 08.08.2023 shall stand unaltered. The Criminal Original Petition is ordered accordingly.

25.11.2024

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To

- 1.The Principal Sessions Judge,
Principal Sessions Court at Chennai.
- 2.The Inspector of Police,
K-1, Sembium Police Station,
Chennai – 600 011.
- 3.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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