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Crl.O.P.No.27888 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM

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

Crl.O.P.No.27888 of 2024

J.M.Vijay

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
Guduvancherry Police Station,
(Crime No.111 of 2024).

... Respondent

PRAYER: Criminal Original Petition filed under Section 483(b) of Bharatiya Nagarik Suraksha Sanhita, 2023, to modify the condition No.1 in the bail order dated 23.10.2024 made in Crl.M.P.No.3027 of 2024 on the file of Court of Principal District and Sessions Judge, Chengalpattu, so as to release the petitioner on bail in execution of bond for Rs.10,000/- with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.II, Chengalpattu.

For Petitioner : Mr.S.Abu Backer Sidhic

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



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ORDER

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The petitioner, who was arrested and remanded to judicial custody on 23.09.2024 for the offences punishable under Section 406, 409 and 420 IPC, in Crime No.111 of 2024 on the file of the respondent police, and enlarged on bail vide order dated 23.10.2024 in Crl.M.P.No.3027 of 2024 by the Principal District and Sessions Judge, Chengalpattu, has filed the above criminal original petition seeking modification of the condition No.1 imposed on him.

2. The learned counsel appearing for the petitioner would submit that the petitioner was arrested and remanded to judicial custody on 23.09.2024 for the offences punishable under Section 406, 409 and 420 IPC, in Crime No.111 of 2024 on the file of the respondent police and had filed Crl.M.P.No.3027 of 2024 before the Principal District and Sessions Judge, Chengalpattu, in which, the learned Judge, while granting bail, had imposed a condition directing the petitioner to deposit Rs.7,00,000/- (Rupees seven lakhs only) by way of Demand Draft into the account of the Judicial Magistrate No.II, Chengalpattu concerned in Crime No.111 of 2024 of Guduvancherry police station and on such deposit, the petitioner/accused is ordered to be released on bail on his



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execution of bond for Rs.10,000/- with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.II, Chengalpattu. He would further submit that though bail has been granted on 23.10.2024, due to the abovesaid condition, he is unable to come out on bail. He would also submit that the condition imposed by the trial Court is virtually in the nature of recovery in a civil suit and the condition to deposit Rs.7,00,000/- for bail is onerous. The Apex Court as well as this Court had 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 was arrested on 23.09.2024 and has been granted bail on 23.10.2024 with condition to deposit Rs.7,00,000/- and since the said amount has not been deposited by the petitioner, he is unable to furnish sureties and come out on bail. He would further submit that major part of the investigation is completed.

4.Heard the learned counsel for the petitioner and the learned



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Government Advocate (Crl.Side) for the respondent Police and perused the materials available on record.

5.In the present case, the learned Judge, while granting bail to the petitioner on 23.10.2024, had imposed a condition directing the petitioner to deposit Rs.7,00,000/-(Rupees seven lakhs only) by way of Demand Draft into the account of the Judicial Magistrate No.II, Chengalpattu concerned in Crime No.111 of 2024 of Guduvancherry police station. Since the petitioner is unable to deposit the said amount, he could not come out on bail despite the same having been granted on 23.10.2024.

6.The Hon'ble Apex Court in *Dilip Singh Vs. The State of Madhya Pradesh (S.L.P.(Crl).10484 of 2019 dated 19.01.2021)*, has held that a Criminal Court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial and has also modified the order impugned by deleting the direction to deposit Rs.41 lakhs as directed by the High Court concerned.

7.Considering the submissions made and also following the judgment cited supra, this Court is of the view that the condition No.1



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imposed by the Principal District and Sessions Judge, Chengalpattu, in
CrI.M.P.No.3027 of 2024 dated 23.10.2024 is onerous and is modified
to the effect that

**“The petitioner shall execute a bond for a sum of
Rs.10,000/- with two sureties each for a like sum to
the satisfaction of the Judicial Magistrate No.II,
Chengalpattu”.**

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

Note:

Issue order copy today.

To

1. The Principal District and Sessions Judge, Chengalpattu.
- 2.The Judicial Magistrate No.II, Chengalpattu.
3. The Inspector of Police, Guduvancherry Police Station.
4. The Superintendent, Sub Jail, Chengalpattu.
5. The Public Prosecutor, High Court of Madras.raa

A.D.JAGADISH CHANDIRA,J.



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