



Crl.O.P.(MD)No.19661 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19661 of 2024

1.Marshal Jose
2.Jenit
3.Naveen
4.Praveen
5.Rexlin Anto

... Petitioners

Vs.

The State of Tamil Nadu, Rep. by
The Inspector of Police,
Kottar Police Station,
Nagercoil,
Kanyakumari District.
(Crime No.303 of 2024)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 read with Section 483(1)(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records and set aside the order dated 22.10.2024, made in Crl.M.P.No.3936 of 2024, on the file of the Principal Sessions Court, Kanyakumari District at Nagercoil.

For Petitioners : Mr.S.Balaji Nivas



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For Respondent : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 14.11.2024, which reads as follows:-

"The petitioner, who is the accused in Crime No.303 of 2024 for the offences punishable under Sections 49, 191(2), 191(3), 329(4), 296(b), 115(2), 118(1), 109 and 351(3) of BNSS Act, 2023, was arrested and thereafter, granted bail by the Sessions Court, Nagercoil, on 30.09.2024. One of the bail condition was that the petitioner to appear before the Judicial Magistrate No.I, Madurai, daily at 10.30 am., and 05.00 pm., until further orders. Without complying the same, the petitioner filed Crl.M.P.No.3936 of 2024 to modify that condition. The Sessions Court vide the impugned order dated 22.10.2024, dismissed the said petition holding that without appearing for a single day, the petitioner filed this modification petition and hence, the same cannot be entertained. Aggrieved by the same, this petition has been filed.

2. It is seen that the occurrence had taken place at wine shop bar. The petitioner's contention is that he is coolie daily wager and unable to stay in Madurai and comply with the



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condition, since it would incur expenditure and loss of income, that cannot be a reason for non-complying the bail condition. The petitioner, at the time of granting bail, agreed to the condition and executed the sureties. Now, projected it as if it is a onerous condition. It is also admitted by the petitioner that after granting bail, he went to Kerala for his employment. When he can go to Kerala, he can very well come to Madurai and comply with the bail condition. Accordingly, the petitioner is directed to appear before the learned Judicial Magistrate No.I, Madurai, on three working date on 18.11.2024, 19.11.2024 and 20.11.2024, without fail and thereafter, the petitioner's plea can be considered.

3. List the matter on 21.11.2024."

2. Pursuant to the above said order, the learned Additional Public Prosecutor submits that the petitioners have complied with the conditions imposed by this Court, except for the third petitioner, who was arrested in another case in Crime No.253 of 2024 filed by the Boothapandi Police Station, Kanyakumari District, and is currently confined in the District Prison, Nagercoil.



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3. In view of the above, the petitioners' request to modify the condition requiring them to appear before the learned Judicial Magistrate No.I, Madurai, twice daily (at 10:30 a.m. and 05:00 p.m.) is hereby modified. The petitioners are now directed to appear before the respondent Police every Saturday at 10:00 a.m. for a period of four weeks, and thereafter as and when required.

4. Accordingly, this Criminal Original Petition is disposed of.

NCC : Yes / No

21.11.2024

Index : Yes / No

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Note:- Issue order copy on 22.11.2024.

To

1.The Principal Sessions Judge,
Kanyakumari District at Nagercoil.

2.The Inspector of Police,
Kottar Police Station,
Nagercoil,
Kanniyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
Crl.O.P.(MD)No.19661 of 2024

Dated: 21.11.2024