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CRL OP NO. 2290 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-01-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP NO. 2290 of 2025

STALIN

S/o. Ranganathan, Sempari Salai, Pennadam,
Thittakudi Taluk, Cuddalore District.

Petitioner(s)

Vs

The State Rep.By, Station House Officer,
District Crime Branch Police Station, Cuddalore,
Cuddalore District. Cr.No.28 Of 2024.

Respondent(s)

For Petitioner(s):

M.Selvam
V.K.Rajendran
S.Sowmiya
P. Thirumalaivasan

For Respondent(s):

S.Santhosh
Government Advocate (criminal Side),madras High
Court.

ORDER

This petition has been filed to modify the condition imposed on the petitioner in

Paragraph No.4(2) in CMP No.45 of 2025 passed by the Judicial Magistrate

No.I, Vridhachalam, to deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs



only) before the Court and the same has to be kept in CrI.C.D.Account in Crime

No.28 of 2024.

2. The learned counsel for the petitioner would submit that the petitioner was arrested on 16.12.2024 in Crime No.28 of 2024, registered for the offences under Sections 406, 420 of IPC and 76(1) Chit Funds Act. Subsequently, the respondent completed the investigation, filed the final report, and the case has been taken up for trial in C.C.No.141 of 2024 on the file of the Judicial Magistrate No.I, Vridhachalam. He would submit that the petitioner had applied for bail in C.M.P.No.45 of 2025, and the learned Magistrate granted bail for the petitioner on 09.01.2025. He would further submit that due to the condition imposed, the petitioner is unable to deposit a sum of Rs.10,00,000/- and secure release on bail. He would also submit that the co-accused has been released on bail by the Principal District and Sessions Court, Cuddalore in CrI.M.P.No.5 of 2025 dated 04.01.2025 on condition that he shall deposit a cash of Rs.10,00,000/- before the learned Judicial Magistrate No.I, Vridhachalam and the same has to be kept in CrI.C.D.Account in the Crime No.28 of 2024.



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3. Relying on the decision of the Apex Court in *Mithun Chatterjee Vs. State of Odisha (Special Leave to Appeal (crl.) No.4705 of 2021 dated 12.11.2021)* he

would submit that the imposition of an onerous condition for grant of bail tantamount to denial of bail and thereby, he seeks indulgence of this Court in setting aside the specific condition that directing the petitioner to deposit a sum of Rs.10,00,000/- (Rupees Ten Lakhs only)

4. The learned Government Advocate (Crl.Side) would submit that the investigation has been completed and final report has been filed.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. A condition precedent to deposit a sum of Rs.10,00,000/- for grant of bail imposed on the petitioner has been challenged in this petition. As rightly pointed out by the learned counsel for the petitioner, the law is well settled that the conditions of bail cannot be so onerous so that their existence itself tantamounts to refusal of bail.



7. The Apex Court, following its various decision on the issue, has held in a

recent decision in ***Guddan @ Roop Narayan vs. State of Rajasthan (2023***

LiveLaw (SC) 45) as under:-

"9. This Court, time and time again has held that jail is the exception and grant of bail is the rule, and in such a scenario, the conditions imposed on bail must not be unreasonable.

10. In the case of Munish Bhasin and Others Vs. State (Government of NCT of Delhi) and Another (2009) 4 SCC 45, the Appellant had approached the Supreme Court in Appeal against an order of the High Court that had imposed onerous conditions for grant of Anticipatory Bail in a Domestic Violence case. This Hon'ble Court in its reasoning held that harsh and excessive conditions cannot be imposed while granting bail, the relevant observations of this Court are reproduced hereunder:

"10. It is well settled that while exercising discretion to release an accused under Section 438 of the Code neither the High Court nor the Sessions Court would be justified in imposing freakish conditions. There is no manner of doubt that the court having regard to the facts and circumstances of the case can impose necessary, just and efficacious conditions while



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enlarging an accused on bail under Section 438 of the Code. However, the accused cannot be subjected to any irrelevant condition at all.

12. While imposing conditions on an accused who approaches the court under Section 438 of the Code, the court should be extremely chary in imposing conditions and should not transgress its jurisdiction or power by imposing the conditions which are not called for at all. There is no manner of doubt that the conditions to be imposed under Section 438 of the Code cannot be harsh, onerous or excessive so as to frustrate the very object of grant of anticipatory bail under Section 438 of the Code.”

11. In the case of Sanjay Chandra Vs. Central Bureau of Investigation (2012) 1 SCC 40, while hearing a bail Application in a case of an alleged economic offence, this court held that the object of bail is neither punitive nor preventative. It was observed as under: “21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the



fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.

25. The provisions of CrPC confer discretionary jurisdiction on criminal courts to grant bail to the accused pending trial or in appeal against convictions; since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing the valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, is a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognised, then it may lead to chaotic situation and would jeopardise the personal liberty of an individual.

27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution.”

12. Further, in the case of Sandeep Jain Vs. National Capital Territory of Delhi (2000) 2 SCC 66, this Court, while hearing a bail application held that conditions for grant of bail cannot become so onerous that their existence itself is tantamount to refusal of bail. This Court held as under:



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“We are unable to appreciate even the first order passed by the Metropolitan Magistrate imposing the onerous condition that an accused at the FIR stage should pay a huge sum of Rs 2 lakhs to be set at liberty. If he had paid it is a different matter. But the fact that he was not able to pay that amount and in default thereof he is to languish in jail for more than 10 months now, is sufficient indication that he was unable to make up the amount. Can he be detained in custody endlessly for his inability to pay the amount in the range of Rs.2 lakhs? If the cheques issued by his surety were dishonoured, the Court could perhaps have taken it as a ground to suggest to the payee of the cheques to resort to the legal remedies provided by law. Similarly if the Court was dissatisfied with the conduct of the surety as for his failure to raise funds for honouring the cheques issued by him, the Court could have directed the appellant to substitute him with another surety. But to keep him in prison for such a long period, that too in a case where bail would normally be granted for the offences alleged, is not only hard but improper. It must be remembered that the Court has not even come to the conclusion that the allegations made in the FIR are true. That can be decided only when the trial concludes, if the case is charge-sheeted by the police.”

13. In the present case, the Appellant has been granted bail by the High Court. However, while granting bail, the High Court has imposed the excessive conditions of a deposit of fine amount of Rs.1,00,000/- along with a surety of another Rs.1,00,000/- and two further bail bonds of Rs.50,000/- each.



14. *We are unable to appreciate the excessive conditions of bail imposed by the High Court. The fact that bail has been granted to the Appellant herein is proof enough to show that he is not to be languishing in jail during the pendency of the case.*

15. *While bail has been granted to the Appellant, the excessive conditions imposed have, in-fact, in practical manifestation, acted as a refusal to the grant of bail. If the Appellant had paid the required amount, it would have been a different matter. However, the fact that the Appellant was not able to pay the amount, and in default thereof is still languishing in jail, is sufficient indication that he was not able to make up the amount.*

16. *As has been stated in the Sandeep Jain case (supra), the conditions of bail cannot be so onerous that their existence itself tantamounts to refusal of bail. In the present case, however, the excessive conditions herein have precisely become that, an antithesis to the grant of bail."*

10. *Following the above decision, this court in Rajaram vs. State (Crl.O.P.(MD).No.2976 of 2023 dated 1.2.2023) and in Sankar vs. State (Crl.O.P.(MD).No.3938 of 2023 dated 2.3.2023) has set aside the condition imposed by the court below in those cases holding that imposing such onerous conditions tantamounts to refusal of bail."*



8. As stated above, in this case, the petitioner has been arrested on 16.11.2024

and despite the grant of bail on 09.01.2025, the petitioner is unable to deposit a

sum of Rs.10,00,000/- and is unable to come out on bail and this Court finds

that the imposition of the said onerous conditions are unsustainable.

9. In view of the above, the condition imposed directing the petitioner to deposit

a sum of Rs.10,00,000/- is set aside and the other conditions imposed by the

Court shall remain unaltered.

10. Accordingly, this Criminal Original Petition is ordered.

30-01-2025

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Note : Issue order copy on 31.01.2025

To

1. The State Rep.By, Station House Officer,
District Crime Branch Police Station,
Cuddalore, Cuddalore District.
Cr.No.28 Of 2024.



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A.D.JAGADISH CHANDIRA, J.

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