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CRL OP NO. 4535 of 202



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20-02-2025**

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL OP NO. 4535 of 2025

Moideen Abdul Kadar
S/o. Syed Peer Ali, No.6/11, Kathbada 3rd Lane,
Washermenpet, Chennai-600021

Petitioner(s)

Vs

State Rep, By Inspector Of Police,
P6 Kodungaiyur Police Station. Chennai.

Crime No. 869/2024

Respondent(s)

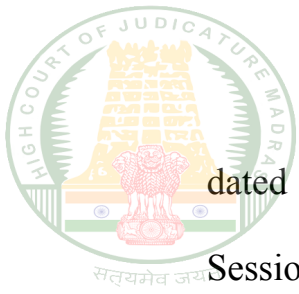
PRAYER: This criminal original petition has been filed under Section 483(1)(b) of BNSS to set aside the conditions imposed in para No.6 “one surety must be a blood related surety” and in Para No.6(b) “to deposit Rs.2,00,000/- to the credit of the Crime No.869 of 2024 before the said Court” of the order dated 03.02.2025 in CrI.M.P.No.931 of 2025 passed by the 1 Additional Sessions Judge, Chennai.

For petitioner (s): Mr.M.Hussaini Basha

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

ORDER

This criminal original petition has been filed under Section 483(1)(b) of BNSS to set aside the conditions imposed in para No.6 “one surety must be a blood related surety” and in Para No.6(b) “to deposit Rs.2,00,000/- to the credit of the Crime No.869 of 2024 before the said Court” of the order



dated 03.02.2025 in CrI.M.P.No.931 of 2025 passed by the 1 Additional Sessions Judge, Chennai.

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2. It is the case of the prosecution that the petitioner along with the other accused had cheated the de facto complainant to a tune of Rs.38,00,000/- promising to give huge returns; and that the petitioner did not pay the promised returns.

3. The petitioner sought for bail before the Sessions Court, Chennai. The Court had granted bail to the petitioner *vide* order dated 03.02.2025 by observing that the petitioner has returned major portion of the amount to the de facto complainant; that the petitioner was due to pay only Rs.4,00,000/- and since the learned counsel for the petitioner undertook to deposit Rs.2,00,000/-, the Court directed the petitioner to deposit the said amount.

4. The learned counsel for the petitioner would submit that the petitioner was not aware of his counsel's submission before the learned Judge and in any case he submits that out of Rs.38,00,000/-, admittedly Rs.34,00,000/- was settled to the de facto complainant; that he is unable to settle the remaining amount of Rs.4,00,000/-; that further the petitioner is



unable to execute the sureties as the direction is that one of the sureties must be a blood related surety and that the said condition is onerous and hence prayed for setting aside the aforesaid conditions imposed on the petitioner.

5. Learned Government Advocate (Crl. Side) appearing for the respondent police reiterated the prosecution case and submitted that, the petitioner had not complied with the conditions imposed by the Court and therefore, opposed the modification petition.

6. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials available on record.

7. It is the case of the petitioner that he did not give any undertaking. However, the said submissions cannot be countenanced. At the same time, out of Rs.38,00,000/-, the petitioner had paid major portion of the amount that he is liable to pay. Hence, this Court is of the view that the condition imposed in para No.6(b) to deposit a sum of Rs.2,00,000/- can be set aside as it is onerous. Further, the petitioner is



unable to produce a blood surety. Hence, the said condition imposed in para No.6 is modified to the effect that the petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties for a like sum and both the sureties shall be local sureties to the satisfaction of the learned X Metropolitan Magistrate, Chennai and the other conditions imposed on the petitioner *vide* the aforesaid order remain unaltered.

8. Accordingly, this criminal original petition is ordered.

20.02.2025

vca

To
1. State Rep, By Inspector Of Police,
P6 Kodungaiyur Police Station.
Chennai. Crime No. 869/2024

SUNDER MOHAN, J.



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