

Crl.M.C No.TMP 5 of 2020

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.S. DIAS

TUESDAY, THE 21st DAY OF APRIL 2020/1st VAISAKHA , 1942

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(Crl.M.C. No. XXXIV A/2020 of the Learned Sessions Judge,Thalassery arising from Crime.No.823/2011 of CB-CID EOW-III ,Kozhikode arising from Crime.No.342/2011 of Peringome Police Station)

PETITIONER/8th ACCUSED:

Chinna Rao Swayamvarappu, aged 35 years, S/o Venkadeswar Rao Swayamvarappu, House.No.8-3-225/A/17,Yousuf Gudha, Hyderabad, Telengana, presently residing in No.179.Alagiri Strert,Magestic Colony,Valasalavakam,Chennai

By Adv. Sri Rajit.

Respondents/Complainants

1. State of Kerala, Represented by the Public Prosecutor, High Court of Kerala, Ernakulam, Kochi-682 031.

2. The Sub Inspector of Police, Peringome Police Station Police station.

By Public Prosecutor Smt.Sreeja.V.

THIS Crl.M.C HAVING BEEN FINALLY HEARD ON 21.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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ORDER

This is a petition filed under Section 482 of the Code of Criminal Procedure.

2. The petitioner is the eighth accused in Crime No.823/2011 of CB-CID EOW-III, Kozhikode. The petitioner's application for bail was allowed by the Sessions Court, Thalassery in Crl M.C No.XXXIV A/2020. The learned Sessions Judge while granting bail to the petitioner has directed the petitioner to deposit an amount of Rs 25,000/- towards Corona Relief Fund and produce receipt before the said Court.

3. The petitioner is aggrieved by the said condition imposed by the Sessions Court.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor through video-conferencing.

5. The learned counsel for the petitioner argued

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that the said condition imposed by the Sessions Court is onerous. He relies on the decision of this Court in Crl M.C No.3830/2012, wherein this Court has held that the Courts while granting bail shall not direct the accused to make any cash deposit.

6. It is trite law that the grant of bail is a rule and that jail is only an exception. Undisputedly, the petitioner had applied and was granted bail under Sec.167(2) of the Code of Criminal Procedure, which is his inalienable right.

7. The learned Sessions Judge while granting bail has directed the petitioner to deposit an amount of Rs 25,000/- towards the Corona Relief Fund.

8. This Court by its order in Crl M.C 3830/2012, relying on the decision of the Hon'ble Supreme Court in **Moti Ram v. State of Madhya Pradesh (AIR 1978 SC 1594)** has held that the imposition of cash security or deposit of any amount for grant of bail is unjust, irregular

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and improper.

9. In view of the above categorical declaration of law, I find that Condition No.2 imposed by the learned Sessions Judge, that the petitioner should deposit an amount of Rs 25,000/- towards the Corona Relief Fund is improper and unjust. Hence, I quash the said condition. Nevertheless, the petitioner shall comply with all the other conditions contained in the impugned order.

10. The learned counsel for the petitioner submitted that the proposed sureties hail from Thrissur. Unless directed by this Court, the Police will not grant permission to the petitioner and his sureties to travel due to Covid-19, and therefore, the petitioner will not be in a position to execute the bail bond. In the said peculiar circumstances, in exercise of the powers of this Court under Sec.482 of the Code of Criminal Procedure, I direct the jurisdictional Police to grant the requisite permission to the petitioner and the sureties to travel from Thrissur to Thalassery for

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the purpose of executing the bail bond before the jurisdictional Court.

With the above observation, this Crl M.C is allowed.

C.S.DIAS
JUDGE

sks/21.4.2020

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