

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ASHOK MENON

FRIDAY, THE 08TH DAY OF MAY 2020 / 18TH VAISAKHA, 1942

CRL.MC No.2591 OF 2020

(IN CRL MC NO. 202 /2020 IN CRL MC 118/2020 OF THE ADDL. SESSIONS JUDGE II MANJERI (SPECIAL COURT FOR NDPS ACT CASES) IN CRIME NO. 67/2020 OF PERINTHALMANNA POLICE STATION IN MALAPPURAM DISTRICT).

PETITIONER/ PETITIONER :

MOHAMMED NISHAD, AGED 26 YEARS, S/O MOOSA,  
THAYYILPARAMBU HOUSE, ALINCHUVADU, TIRUR,  
MALAPPURAM DISTRICT.

BY ADV P. SAMSUDIN, (K-145/1994) (S-983)  
538, KHCAA CHAMBER COMPLEX, HIGH COURT OF KERALA,  
ERNAKULAM 31

RESPONDENTS/ RESPONDENTS :

1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. THE SHO PERINTHALMANNA (CRIME NO. 67/2020)

R1 - R2 BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL MC HAVING COME UP FOR ADMISSION ON  
08.05.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**O R D E R**

**Dated, this the 8<sup>th</sup> Day of May, 2020**

**[CRL.MC NO.2591 OF 2020]**

Petitioner seeks modification of the condition in the bail order granted by the Additional Sessions Court-II, Manjeri (in charge of Special Judge NDPS Act cases, in Cr1.M.C.No.118/2020). The short facts are that, the petitioner is the second accused in Crime No.67/2020 of Perinthalmanna Police Station alleging commission of offences punishable under Sections 20(b)(ii)(B) and 22(b) and 29 of the NDPS Act. The petitioner was granted bail on 21.04.2020 by the Additional Sessions Court subject to the condition of his executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like amount. There was a further condition that one of the sureties should be a relative of the petitioner and the other surety, be a Government employee. The petitioner is aggrieved by the latter condition which require a relative and a Government employee to be sureties for the purpose of his bail.

2. Heard both sides.

3. The first accused in this Crime was also released on bail by the trial court on similar

conditions, and this Court had vide Order at Annexure A3 in CrI.MC No.9 of 2020 dated 30.04.2020, modified the order. I find that the petitioner herein is also similarly placed and is entitled to the benefit of this Court's earlier Order. The contention of the petitioner is that the provisions of the Code of Criminal Procedure do not envisage a condition of the sureties being either relatives or Government employees. This Court has time and again deprecated the practice of imposing onerous conditions while granting bail, especially the conditions which are not impossible of compliance.

4. In the result, the condition under challenge, i.e. one of the two sureties shall be the relative of the petitioner and other shall be a Government employee, is deleted and it is made clear that the petitioner need only to execute a bond for Rs.1,00,000/- (Rupees one lakh only) with two solvent sureties each for the like amount, to the satisfaction of the Additional Sessions Court.

The Criminal M.C is allowed as above.

**ASHOK MENON,  
JUDGE**

APPENDIX

PETITIONER'S ANNEXURE

ANNEXURE A1: DRAFT COPY OF THE ORDER DT. 21-04-2020 IN  
CRL MC 118/2020 OF THE ADDL. SESSIONS JUDGE II MANJERI.

ANNEXURE A2: DRAFT COPY OF THE ORDER DT. 30-04-2020 IN  
CRL MC 202 /2020 IN CRL MC 118/2020 OF THE ADDL. SESSIONS  
JUDGE II MANJERI.

ANNEXURE A3: TRUE COPY OF THE ORDER DT. 30-04-2020  
IN CRL MC 9 /2020.