

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.S. DIAS

FRIDAY, THE 24TH DAY OF APRIL 2020/4TH VAISAKHA , 1942

CRL.M.C.NO.TMP 7 /2020

(C.C.No.497/2019 of the Learned CJM Court,Kottayam arising from Crime.No.348/2011
of the Mundakayyam Police station)

PETITIONER/5th ACCUSED:

Chinna Rao Swayamvarappu, aged 29 years, S/o Venkadeswar Rao
Swayamvarappu, House.No.8-3-225/A/17,Yousuf Gudha,
Hyderabad, Telengana.

By Adv. Sri Rajit

RESPONDENTS

1. State of Kerala, Represented by the Public Prosecutor, High Court of Kerala, Ernakulam, Kochi-682 031.
2. The Sub Inspector of Police, Mundakayyam Police station Police station.

BY Public Prosecutor

THIS CRL.M.C. HAVING BEEN FINALLY HEARD ON 24.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.S. DIAS, J

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CRL.MC. NO. TMP 7 OF 2020

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DATED THIS THE 24th DAY OF APRIL, 2020

ORDER

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

2. The petitioner is the fifth accused in C.C No.497/2019 of the Chief Judicial Magistrate Court, Kottayam. The petitioner had moved an application for bail before the Chief Judicial Magistrate Court, Kottayam, which was dismissed. Assailing the said order, the petitioner filed Crl M.P No.515/2020 before the Sessions Court, Kottayam.

3. The Sessions Court, by order dated 11.3.2020, allowed Crl M.P No.515/2020, by granting bail to the petitioner. However, the Sessions Court by condition No.2 directed the petitioner to deposit an amount of Rs 1,00,000/- as cash security, for the appearance and availability of the petitioner during trial of the case.

4. It is aggrieved by condition No.2 in the said order that this Crl M.C is filed.

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

6. The learned counsel for the petitioner argued that the Condition No.2 in the order imposed by the Sessions Court is onerous. According to him, this Court by its common order dated 10.1.2013 in Crl M.C No.3830/2012 had, relying on the decision of the Hon'ble Supreme Court in **Moti Ram v. State of Madhya Pradesh (AIR 1978 SC 1594)**, quashed the condition directing the accused to furnish cash security to be released on bail. According to the learned counsel, the ratio decidendi in the above decision applies on all fours to the facts of this case.

7. After having gone through the decision rendered by this Court in Crl M.C 3830/2012, wherein this Court has categorically held that it is improper and unreasonable for Courts to direct the accused to furnish cash security for being released on bail, and considering the facts and circumstances of the case, I am inclined to allow this Crl M.C by deleting condition No.2 in paragraph 8 of the order dated 11.3.2020 in Crl M.P No.515/2020. The petitioner shall comply with all the other directions contained in the above order.

8. The learned counsel for the petitioner submits that, in view of the national lockdown in the country, the petitioner and his sureties are unable to travel from Thrissur to Kottayam to execute the bail bond. Having regard to the peculiar circumstances of the case, in exercise of the powers of this Court under section 482 of the Cr.P.C, I direct the jurisdictional Police to grant necessary permission to the petitioner, to enable the petitioner and his sureties to travel from Thrissur to Kottayam and back, in order to execute the bail bond.

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

Nsd

C.S. DIAS
JUDGE