

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.24131 of 2013

S.Ravi Rathinam

... Petitioner

Vs

1. State, rep. by  
Inspector of Police,  
J.2, Adyar Police Station,  
Adyar, Chennai-20.

2. Anandaraj  
3. Janakiraman  
4. Prakasam

... Respondents

Criminal Original Petition filed under Section 439(2) Cr.P.C. to cancel the bail granted in Crl.M.P.No.3263 of 2013 dated 20.8.2013 on the file of the Court of IX Metropolitan Magistrate Court at Saidapet, Chennai-15.

For Petitioner : Ms.R.T.Shyamala

For Respondents : Mr.M.Mohamed Riyaz,  
Govt. Advocate (Crl. Side) for R.1  
Mr.Joel for R.2 to R.4

ORDER

The present criminal original petition has been filed to cancel the bail granted to the respondents 2 to 4 in Crl.M.P.No.3263 of 2013 dated 20.8.2013 by the learned IX Metropolitan Magistrate, Saidapet, Chennai-15.

2. The petitioner is the de facto complainant and the respondents 2 to 4 are A.1 to A.3 in Crime No.1339 of 2013 on the file of the first respondent police.

3. The case of the petitioner, in brief, is as follows:-

The petitioner is one of the Directors of SRS Thanga Nagai Maligai. The respondents 2 to 4 worked in the said Thanga Nagai Maligai from 2007 to 10.6.2013. The second respondent was incharge

of the stocks and the computer of the company was also operated by him and he used to make the entries in the computer about the stocks. From 2007 onwards, the second respondent with the help of respondents 3 and 4, made alterations and deletions in the system and thereby, he removed the tag of jewels from the stock entries in the computer and after deleting the same, with the connivance of respondents 3 and 4, he removed the jewels from the shop and misappropriated the same. Hence, a complaint has been lodged as against the respondents 2 to 4. Based on the said complaint, a case was registered in Crime No.1339 of 2013 for the offence under Section 381 I.P.C. as against the respondents 2 to 4. Subsequently, they were arrested and released on bail. Now, the present petition has been filed by the petitioner herein for cancellation of the bail granted by the learned IX Metropolitan Magistrate, Saidapet, Chennai-15.

4. The main submission of the learned counsel appearing for the petitioner is that the respondents 2 to 4 have misappropriated 22 kgs and 539 gms of gold, out of which only 2050 grams of gold was recovered. Further, the rest of the jewels were not recovered so far. Hence, the bail already granted to them is liable to be cancelled.

5. However, in my considered opinion, the said submission made by the learned counsel appearing for the petitioner will not serve as a ground for cancellation of bail granted to the respondents 2 to 4. Once bail is granted by the Court below, it could be cancelled only if the respondents 2 to 4 abuse the said concession. In this regard, a reference could be placed in the judgment of the Hon'ble Supreme Court reported in (1995) 1 Supreme Court Cases 349 - Dolat

Ram and others v. State of Haryana, wherein it has been held as follows:-

" Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail already granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to

allow the accused to retain his freedom by enjoying the concession of bail during the trial."

6. In yet another decision reported in (2009) 10 Supreme Court Cases 652 - Hazari Lal Das v. State of West Bengal and another, the Hon'ble Supreme Court by relying upon the above said decision in the case of Dolat Ram and others v. State of Haryana reported in (1995) 1 Supreme Court Cases 349, has held as follows:-

" 7. There is nothing on record that there has been interference or attempt to interfere with the due course of administration of justice by the appellant. It also does not appear from the record that the concession granted to him has been abused in any manner. No supervening circumstances have surfaced nor shown justifying cancellation of anticipatory bail. The judicial discretion exercised by the Sessions Judge in granting the anticipatory bail has been interfered with by the High Court in the absence of cogent and convincing circumstances. We are, thus, satisfied that the impugned order cannot be sustained."

7. The dictum laid down in the above cases would clearly show that once bail is granted, the same cannot be cancelled in a mechanical manner. Only if there is any abuse of concession granted to the accused, then only the Court can cancel the bail. In the instant case, it is the submission of the learned counsel appearing for the petitioner that the respondents 2 to 4 have misappropriated 22 kgs and 539 gms of gold, out of which only 2050 grams of gold was recovered and the rest of the jewels were not recovered so far. However, the same cannot serve as a ground for cancelling the bail granted to them and on the ground alone, the bail already granted to the respondents 2 to 4 cannot be cancelled.

8. For the reasons stated above, I am of the opinion, the petitioner has not made out any case to cancel the bail granted to the respondents 2 to 4 in Crl.M.P.No.3263 of 2013 dated 20.8.2013 by the learned IX Metropolitan Magistrate, Saidapet, Chennai-15.

9. In fine, the criminal original petition is dismissed.

sbi

s/d-  
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The IX Metropolitan Magistrate,  
Saidapet, Chennai 15.

2. The The Inspector of Police,  
J2, Adyar Police Station,  
Adyar, Chennai-20

3. The Public Prosecutor,  
High Court, Chennai.

+ 1 cc to M/s.R.T.Shyamala, Advocate SR 33087

+ 1 cc to Mr.S.Joel, Advocate SR 33564

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