



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Ninth day of July Two Thousand Fifteen

PRESENT

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The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) Nos.9835 & 9836 of 2015

A. GNANARAJ ... PETITIONER/DEFACTO COMPLAINANT IN BOTH PETITIONS

Vs

J. SAGAYAKUMAR ...1ST RESPONDENT/ACCUSED NO.2 IN CRL OP(MD)NO.9835/15

S.ALPHONSE ...1ST RESPONDENT/ACCUSED NO.1 IN CRL OP(MD)NO.9836/15

STATE REP.BY
THE INSPECTOR OF POLICE
CITY CRIME BRANCH,
MADURAI.

... 2ND RESPONDENT/COMPLAINANT IN BOTH PETITIONS

Prayer in CRL OP(MD)No.9835/15:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to set-aside the impugned order dated 09/07/2014 passed in the anticipatory bail petition in Cr.M.P.No.4586/2014 on the file of the Principal Sessions Court, Madurai and cancel the anticipatory bail and direct the first respondent/second accused in Crime no.20/2014 on the file of the second respondent/complainant be arrested and committed to custody.

Prayer in CRL OP(MD)No.9836/15:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to set-aside the impugned order dated 09/07/2014 passed in the anticipatory bail petition in Cr.M.P.No.4585/2014 on the file of the Principal Sessions Court, Madurai and cancel the anticipatory bail and direct the first respondent/second accused in Crime No.20/2014 on the file of the second respondent/complainant be arrested and committed to custody.

Order : These petitions coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.T.R.JEYAPALAM, Advocate for the petitioners in both petitions and of MR.K.V.RAJARAJAN, Govt.Advocate(Crl.Side) on behalf of the Respondents 2 in both petitions, the court made the following order:-

These applications are filed to cancel the anticipatory bail granted to the first respondent herein/A2 and A1 by the learned Principal Sessions Judge, Madurai in Crl.M.P.Nos.4585 and 4586 of 2014, dated 09.07.2014.

<https://hcservices.ecourts.gov.in/hcservices/>

2.This court, after considering the case of the accused and the objections raised by the learned Additional Public Prosecutor, dismissed



the petition filed by the accused in Crl.O.P(MD)No.7656 of 2013 on 17.07.2013 observing that it is not a fit case to grant anticipatory bail to the accused and the personal appearance of the accused is necessary for interrogation. Thereafter, all the accused filed Crl.O.P (MD)No.7937 of 2014 and this court based on the order passed in Crl.O.P (MD)No.7656 of 2013, dismissed the anticipatory bail petition as against A1 and A2 on 17.06.2014 and thereafter, A1 and A2 filed third application before this court in Crl.O.P(MD)Nos.12704 and 12705 of 2014 seeking anticipatory bail. On 02.07.2014, when the petitions were pending consideration, A1 and A2 filed Crl.M.P.Nos.4585 and 4586 of 2014 before the learned Principal Subordinate Judge, Madurai for anticipatory bail.

3.The learned Sessions Judge granted anticipatory bail to the accused/A1 and A2 on 09.07.2014. The petitioner herein, who is the de-facto complainant in the criminal case, filed these applications contending that the accused had obtained the orders, by suppressing the material facts, they also played fraud on the Court and therefore, the anticipatory bail granted by the Sessions Court to A1 and A2 has to be cancelled.

4.Despite service of notice, the first respondent, in both the applications viz., A1 and A2 has not chosen to appear and contest the applications.

5.The learned Government Advocate (Criminal side) submitted that the accused had approached the Sessions Court, without disclosing the earlier orders of this court and obtained anticipatory bail in their favour and therefore, the anticipatory bail granted to A1 and A2 by the Sessions Court is liable to be cancelled.

6.The main ground for cancellation of the anticipatory bail is that the accused had not brought to the knowledge of the Sessions Court, the earlier orders passed by this court in Crl.O.P(MD)No.7656 of 2013, dated 17.07.2013 and Crl.O.P(MD)No.7937 of 2014, dated 17.06.2014 and also pendency of the 3rd applications filed before this court in Crl.O.P(MD) Nos.12704 and 12705 of 2015.

7.It is seen that in Crl.O.P(MD)No.7656 of 2013 this court has categorically held that the accused are not entitled for anticipatory bail and custodial interrogation is necessary. The same view was taken by this court in Crl.O.P(MD)No.7937 of 2014. In the anticipatory bail petitions filed before the Sessions Court, the first respondent herein, in both the applications, has not mentioned the orders passed in Crl.O.P (MD)No.7656 of 2013 and they made reference about the withdrawal of the anticipatory bail petition in Crl.O.P(MD)No.7937 of 2014.

8.Considering the above facts, this court is of the view that the first respondent in both the applications viz., A1 and A2 had obtained the anticipatory bail by playing fraud on the court and hence, the anticipatory bail granted to A1 and A2 is liable to be set aside.

9. In the result, both the applications are allowed and the anticipatory bail granted to A1 and A2 by the Sessions Court in Crl.M.P.Nos.4585 and 4586 of 2014, dated 09.07.2014 is set aside. The



second respondent police is at liberty to secure the accused and take appropriate action as per the law.

sd/-
09/07/2015

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE PRINCIPAL SESSIONS JUDGE, MADURAI.
- 2 THE INSPECTOR OF POLICE
CITY CRIME BRANCH, MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) Nos.9835 & 9836 of 2015
Date :09/07/2015

PA/IV/15.07.2015/3P/4C