

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2016

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THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal Original Petition No. 12733 of 2016

Diesl

represented by its Power Agent

Mr. Sreeraj Nair (Branch Manager)

50, Ariyamanda Nallur Village

Poonamallee Bypass

Chennai - 600 056

.. Petitioner

Versus

1. Simran

2. The Inspector of Police

E-5, Solavarm Police Station

Solavaram, Redhills

Chennai - 600 067

.. Respondents

Petition filed under Section 482 of Code of Criminal Procedure praying to cancel the anticipatory bail granted in CrI.OP No. 5150 of 2015 dated 30.09.2015 arising out of Crime No.526 of 2015 on the file of Respondent Police.

For Petitioner : Mr. S.L. Sudarsanam

For Respondents: Mr. R.C. Ramesh for R1

Mr. Madhan, Government Advocate
(CrI.side) for R2

ORDER

The defacto complainant in Crime No. 526 of 2015 has come forward with this Criminal Original Petition seeking to cancel the anticipatory bail granted by this Court on 30.09.2015 in CrI.OP No. 5150 of 2015 favour of the accused/first respondent herein.

2. The accused/first respondent herein has filed the above CrI.OP No. 5150 of 2015 before this Court praying for grant of anticipatory bail in his favour as he apprehended arrest at the hands of the respondent police for the alleged offences punishable under Section 407 of IPC. By order dated 13.09.2015, this Court granted anticipatory bail in favour of the accused/first respondent herein subject to certain conditions. One of the conditions is that the accused/first respondent herein shall file an affidavit of undertaking before the trial court to the effect that he will return the goods immediately and also will cooperate with the investigating agency.

3. It is brought to the notice of this Court by the learned counsel for the petitioner/defacto complainant that as directed by this Court, the accused/first respondent herein has not filed any affidavit of undertaking and thereby he has violated the directions issued by this Court on 13.09.2015.

4. The learned counsel for the accused/first respondent herein would contend that he has filed a petition for extension of time for compliance of the conditions imposed in the order dated 13.09.2015 in MP No. 2 of 2015 in CrI.OP No. 5150 of 2015 and by order dated 06.11.2015, this Court extended the time for compliance of the conditions by two weeks finally. According to the learned counsel for the accused/first respondent herein, the accused/first respondent herein could not comply with the conditions because there was an error crept in mentioning the crime number and therefore, he has filed yet another petition for modification in MP SR No. 99289 of 2016 and it is pending before this Court.

5. The learned Government Advocate would contend that till date, the accused/first respondent herein has neither filed an affidavit as directed by this Court nor surrendered before the trial court by executing a bond. It is further submitted that nothing prevented the accused/first respondent herein from surrendering before the trial court or to file an affidavit, as directed by this Court.

6. I heard the learned counsel on either side. This Court granted anticipatory bail in favour of the accused/first respondent herein on 13.09.2015. Subsequently, at the instance of the accused/first respondent herein, this Court, by order dated 06.11.2015 extended the time for compliance of the order dated 13.09.2015 by two weeks. It was made clear in the order dated 06.11.2015 that no further extension will be granted to the petitioner. As rightly pointed out by the learned counsel for the defacto complainant/petitioner herein as well as the learned Government Advocate appearing for the respondent police, nothing prevented the petitioner from filing an affidavit before the trial court as directed in the order dated 13.09.2015. It is also brought to the notice of this Court that the petitioner has not chosen to surrender before the trial court and executed a bond till date. The argument of the learned counsel for the accused/first respondent herein that there was a typeographical mistake in indicating the crime number and therefore he has filed a petition for modification cannot be a ground for not complying with the order dated 13.09.2015 passed by this Court. Further, only for the first time, it was brought to the notice of this Court that there was a typeographical mistake occurred in the order passed by this Court. This court granted anticipatory bail to the accused/first respondent herein on 13.09.2015 and one year has lapsed. It is not known as to what was the typeographical error crept in the order passed by this Court. The fact remains that till date, the accused/first respondent herein has not even surrendered before this trial Court and executed the bond or complied with the directions to file an affidavit of

undertaking. This only shows that the accused/first respondent herein has disobeyed the order passed by this Court. In such view of the matter, the accused/first respondent herein is not entitled for continuance of anticipatory bail in his favour.

7. Accordingly, the Criminal Original Petition No. 12733 of 2016 is allowed and the order dated 13.09.2015 passed in CrI.OP No. 5150 of 2015 is cancelled. The second respondent police is directed to forthwith arrest the accused/first respondent herein.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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TO

1. The Judicial Magistrate, Ponneri.
2. The Chief Judicial Magistrate, Tiruvallur District.
3. The Inspector of Police
E-5, Solavarm Police Station
Solavaram, Redhills
Chennai - 600 067.
4. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.S.L. Sudarsanam, Advocate SR.60479

सत्यमेव जयते

CrI.OP No. 12733 of 2016

CA(CO)
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