

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty First day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL ORIGINAL PETITION No.27177 of 2017

DR.KANNAKI

[PETITIONER / ACCUSED]

Vs

1 INSPECTOR OF POLICE

[RESPONDENTS]

GUDIYATHAM TOWN POLICE STATION,
GUDIYATHAM TALUK, VELLORE DISTRICT.
CR.NO.146 OF 2017.

2 JAYARAJ

Petition praying that in the circumstances stated therein the High Court will be pleased to cancel the anticipatory bail granted to the 2nd respondent by an order dated 11.09.2017 passed in CrI.OP.NO.5899 of 2017 on the file of this Hon`ble Court and consequently direct the 1st respondent to arrest the 2nd respondent.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.M.R.THANGAVEL Advocate for the petitioner and of PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This petition has been filed to cancel the anticipatory bail granted by this Court, by order dated 11.09.2017 in CrI.O.P.No.5899 of 2017 to Jayaraj/second respondent.

2. On the complaint lodged by Kannaki, the respondent police registered a case in Cr.No.146 of 2017 on 10.03.2017 under Section 420 IPC against Sudhakar [A1] and Jayaraj [A2]. Jayaraj [A2] filed CrI.O.P.No.5899 of 2017 for anticipatory bail, in which, this Court by order dated 11.09.2017, granted anticipatory bail on certain conditions. While so, Kannaki is before this Court for cancelling the anticipatory bail that was granted to Jayaraj [A2] on the ground that, Jayaraj [A2] is threatening her for withdrawing the complaint.

3. On notice, Jayaraj [A2] is present and is represented by Mr.E.Kannadasan, Advocate.

4. Mr.R.Neelamegam, Sub-Inspector of Police, Gudiyatham Town Police Station is also present.

5. Jayaraj [A2] has filed a counter affidavit denying the allegations and giving a further undertaking in paragraph 5, which is as follows:

"5. I submit that I am voluntarily filing this undertaking affidavit that I am not indulge any illegal activities either approach the petitioner/defacto complainant by person or any other contact in further till the disposal of the above case."

6. On instructions, learned Government Advocate [Crl.Side] submitted that investigation in Cr.No.146 of 2017 has been completed and the Final Report is ready to be filed. However, the police have not yet obtained the clearance from the learned Additional Public Prosecutor for filing the same before the jurisdictional Magistrate.

7. Mr.E.Kannadasan, learned counsel for Jayaraj [A2] submitted that Jayaraj [A2] has surrendered before the learned Judicial Magistrate, Gudiyatham and has furnished sureties and also reported before the police.

8. This Court gave its anxious consideration to the rival submissions.

9. It is a trite that the parameters for grant of bail is different from the parameters for cancellation of bail. This Court cannot cancel the bail unless credible materials are placed to show that the accused had violated the conditions of bail.

10. In such view of the matter, this Court is of the view that this is not a fit case to cancel the anticipatory bail that was granted to Jayaraj [A2]. However, in the event of the accused misusing the bail, it is always open to the de facto complainant or the police to move the Judicial Magistrate, Gudiyatham for cancellation of bail, in the light of paragraph 6(e) of the order dated 11.09.2017 in Crl.O.P.No.5899 of 2017 which reads as under:

"[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**."

With the above observation, this petition is closed.

-sd/-

21/12/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
GUDIYATHAM.

2 THE INSPECTOR OF POLICE,
GUDIYATHAM TOWN POLICE STATION,
GUDIYATHAM TALUK, VELLORE DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.M.R.THANGAVEL Advocate on payment of necessary
charges

CRL OP.27177/2017

Date :21/12/2017

MLT-27/12/2017