



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

Friday, the Thirtieth day of June Two Thousand Seventeen

PRESENT

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The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD) No.20385 of 2015
AND
CRL OP(MD)NO. 1432 OF 2017

STATE THROUGH
THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO. 111 OF 2008)

... PETITIONER / COMPLAINANT
IN CRL OP(MD) No.20385 of 2015

... RESPONDENT / RESPONDENT
IN CRL OP(MD)NO. 1432 OF 2017

Vs

SENTHIL @ KANNAN

... RESPONDENT / ACCUSED
IN CRL OP(MD) No.20385 of 2015

... PETITIONER / PETITIONER
IN CRL OP(MD)NO. 1432 OF 2017

MR.C.RAMESH, Additional Public Prosecutor, FOR
PETITIONER CRL OP(MD) No.20385 of 2015
RESPONDENT IN CRL OP(MD)NO. 1432 OF 2017

MR.A.JAYARAMACHANDRAN, Advocate, FOR
RESPONDENT IN CRL OP(MD) No.20385 of 2015
PETITIONER IN CRL OP(MD)NO. 1432 OF 2017

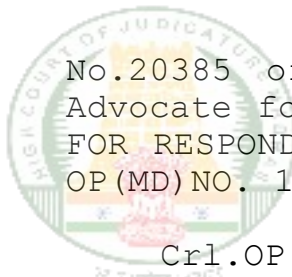
PRAYER IN CRL OP(MD) No.20385 of 2015:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to cancel the bail granted to the respondent/accused in CRL.M.P. 6071 / 2015 dated 28.09.2015 on the file of the learned Judicial Magistrate no. ii, dindigul in the interest of justice and pass such other order as this honourable Court.

PRAYER IN CRL OP(MD)NO. 1432 OF 2017:

To modify the condition imposed by the learned Judicial Magistrate No.II, Dindigul in Cr.MP No.6071 of 2015 dated 28.09.2015.
<https://mcservices.ecourts.gov.in/mcservices/>

Order :These petitions coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.C.RAMESH, Additional Public Prosecutor, FOR PETITIONER CRL OP(MD)



No.20385 of 2015, and RESPONDENT IN CRL OP(MD)NO. 1432 OF 2017, Advocate for the petitioners and of MR.A.JAYARAMACHANDRAN, Advocate, FOR RESPONDENT IN CRL OP(MD) No.20385 of 2015 and PETITIONER IN CRL OP(MD)NO. 1432 OF 2017 the court made the following order:-

Crl.OP(MD)No.1432 of 2017 was filed by the petitioner namely, Senthil @ Kannan, to modify the condition imposed by the learned Judicial Magistrate No.II, Dindigul, in connection with Cr.No.111 of 2008 in Cr.M.P.No.6071 of 2015 dated 28.09.2015.

2.Crl.OP(MD)No.20385 of 2015 was filed by the respondent/Police therein seeking to cancel the Bail granted to the respondent herein in connection with Cr.No.111 of 2008, by the learned Judicial Magistrate No.II, Dindigul in Cr.M.P.No.6071 of 2015 dated 28.09.2015.

3.The learned Additional Public Prosecutor submitted that final report has already been filed in this case and therefore even though bail was granted to the petitioner, since he has not furnished the surety, as directed by the Court which granted bail, his right extinguished in view of the fact that final report has been filed. In support of his submission, the learned Additional Public Prosecutor cited the judgment of the three Judges bench of the Hon'ble Supreme Court in the case of Uday Mohanlal Acharya vs State of Maharashtra reported in (2001) 5 SCC 453, wherein, the Hon'ble Apex Court stated as follows:

"...5.If the accused is unable to furnish the bail as directed by the Magistrate, then on a conjoint reading of Explanation I and the proviso to sub-section (2) of Section 167, the continued custody of the accused even beyond the specified period in para (a) will not be unauthorised, and therefore, if during that period the investigation is complete and the charge-sheet is filed then the so-called indefeasible right of the accused would stand extinguished..."

4.In the light of the above, this Court is of the view that the application for cancellation of bail does not survive, so also the modification petition.

5.With this observation, these petitions are closed, with liberty to the petitioner to file fresh bail petition in the light of the changed circumstances and the Court may consider the same based on merits.

sd/-
30/06/2017

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO II
DINDIGUL

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT

3 THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION
DINDIGUL DISTRICT

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1 cc to M/R.A.JAYA RAMACHANDRAN ,Advocate, SR.NO:25475

ORDER

IN

CRL OP (MD) No.20385 of 2015

AND

CRL OP (MD) NO. 1432 OF 2017

Date :30/06/2017

GK

SVA/CM/MSA/06.07.2017/SAR2/3P/6C