



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

Tuesday, the Twenty Ninth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP (MD) No.5201 of 2017

IN

CRL OP (MD) No.6021 of 2017

State represented by
THE INSPECTOR OF POLICE
PANAVALALICHATHIRAM POLICE STATION,
TIRUNELVELI DISTRICT
CRIME NO. 79 OF 2017

... PETITIONER/RESPONDENT/
COMPLAINANT

Vs

ANANDARAJ

... RESPONDENT/PETITIONER/
ACCUSED NO.2

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to accept the affidavit filed by the petitioner police and dismiss the Anticipatory Bail granted by this Honourable Court in Crl.O.P.NO. 6021 of 2017, Dated 17/05/2017 and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.A.Ramar, Additional Public Prosecutor for the petitioner and of Mr.M.Ramu, Advocate for the respondent, the court made the following order:-

The respondent herein is the petitioner in Crl.O.P.(MD). No.6021 of 2017 and the petitioner herein is the respondent therein. However, for the sake of convenience, the parties are referred to as per the present petition.

2. This petition has been filed by the petitioner under Section 439 (2) of the Criminal Procedure Code to cancel the anticipatory bail granted to the respondent herein in Crl.O.P.No.6021 of 2017 dated 17.05.2017, whereby, this Court, after hearing both the parties, had granted anticipatory bail to the respondent herein on condition that he should appear before the respondent police daily twice. ie., at 10.30 a.m and 5.30 p.m until further orders. Contending that the respondent has not complied with the condition imposed by this Court the petitioner is before this Court.



3. Since the facts have already been considered by this Court in Crl.O.P.(MD).No.6021 of 2017 dated 17.05.2017 and granted bail to the respondent, this Court deems it fit to discuss as to whether any ground has been made out by the petitioner to cancel the anticipatory bail granted to the respondent herein or not?

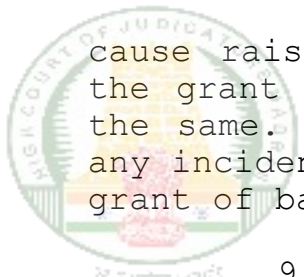
4. The petitioner would aver among other things in the affidavit filed in support of this petition that the present petition has been filed by the petitioner on the ground that the respondent has not complied with the conditions passed by this Court vide its order made in Crl.O.P.(MD).No.6021 of 2017 dated 17.05.2017 and therefore, prays for appropriate orders.

5. Per contra, the respondent would submit that as per the orders of this Court made in Crl.O.P.(MD).No.6021 of 2017, dated 17.05.2017, he went to the respondent police, however, the petitioner did not allow him to sign in the register and he was made wait for a long time and in this regard, he sent a representation to the higher authorities concerned and further, on 06.06.2017, he filed a petition for modification of the condition imposed by this Court order made in Crl.O.P.(MD).No.6021 of 2017 dated 17.05.2017, in an alternative, to appear before the Judicial Magistrate, Sankarankovil. It is also alleged that the petitioner herein put the respondent in humiliation.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents.

7. On the one hand, the petitioner herein submits that the respondent has not complied with the conditions imposed by this Court and on the other hand, it is the version of the respondent that he was not allowed to sign by the respondent police. Rather than going into the allegations made against each other, to give quietus this issue, this Court feels that the condition imposed by this Court can suitably be modified for the reason that as per Article 21, no person shall be deprived of his personal life and liberty. In this connection, it is useful to refer the judgment that in the case of **(Dolat Ram v. State of Haryana, (1955) 1 SCC 349)**, the Hon'ble Supreme Court has held that once bail has been granted, it can only be cancelled based on cogent and overwhelming circumstances. Proceedings for the cancellation of bail are not in the nature of an appeal from the grant of bail, and therefore, a court must look for circumstances that warrant cancellation of bail, such as interference or attempt to interfere with the due course of justice, or abuse of concession of bail granted to the accused in any manner.

8. Further, the Apex Court in the case of **Abdul Basit v. Mohd. Abdul Kadir Chaudhary, (2014) 10 SCC 754** has clearly stated that power of cancellation of bail under Section 439(2) Cr.P.C. is distinct in its nature than that of grant of bail and thus requires different considerations of comparatively stricter yardstick. The Apex Court has also laid down that for cancellation of bail the



cause raised must relate to incident which occurred subsequent to the grant of bail which is sought to be canceled and not prior to the same. In the instant case, petitioner has failed to point out any incident or any other circumstance which arose subsequent to the grant of bail which is sought to be cancelled.

9. Apart from the above, in this case, there is no changing circumstances warranting cancellation of anticipatory bail granted to the respondent. Added further, the respondent also garners support in this regard by placing the representation sent by him immediately when he was not allowed to sign in the register maintained by the respondent police. The Supreme Court in one of the latest decisions has held that if no material is placed justifying the cancellation, the bail cannot be cancelled. Therefore, in order to give quietus to this issue and to meet the ends of justice, this Court modifies the conditions imposed by this Court in its order made in Crl.O.P.(MD).No.6021 of 2017 dated 17.05.2017 to the effect that the respondent herein shall appear before the judicial magistrate concerned daily @ 10.30 a.m. and 4.30 p.m until further orders. Accordingly, this petition stands disposed of.

sd/-
29/08/2017

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE, SANKARANKOVIL
 - 2 -do-thro THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT
 - 4 THE INSPECTOR OF POLICE
PANAVADALICHATHIRAM POLICE STATION,
TIRUNELVELI DISTRICT
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
- +1. C.C. to Mr.M.Ramu, Advocate SR.No.29452

ORDER
IN
CRL MP (MD) No.5201 of 2017
IN
CRL OP (MD) No.6021 of 2017
Date :29/08/2017

SM:CM-MSA:SAR I:1.9.2017:3P/7C

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