



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

Wednesday, the Twenty Third day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL OP(MD) No.5216 of 2017

L.SUBRAMANIAN

... PETITIONER/DEFACTO COMPLAINANT

Vs

1 STATE THROUGH
THE INSPECTOR OF POLICE,
PAVOORCHATHIRAM POLICE STATION,
TIRUNELVELI DISTRICT
CRIME NO. 115 OF 2017

... 1ST RESPONDENT/COMPLAINANT

2 MURUGAN

... 2ND RESPONDENT/ACCUSED

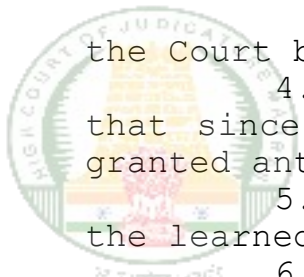
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to set aside the order made in Cr.M.P.No.1489 of 2017 dated 04/04/2017 on the file of Principal District and Sessions Judge, Tirunelveli and cancel the Anticipatory Bail granted to the 2nd respondent.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.V.SASI KUMAR, Advocate for the petitioner and of MR.A.RAMAR, Additional Public Prosecutor for R1 and M/S.S.S.THESIGAN, Advocate for R2, the court made the following order:-

This petition has been filed under Section 439(2) of Criminal Procedure Code to set aside the order made in Cr.M.P.No.1489 of 2017 dated 04.04.2017 on the file of the Principal District and Sessions Judge, Tirunelveli and cancel the anticipatory bail granted to the second respondent.

2. The facts of the case is that the second respondent herein filed anticipatory bail before the Principal District and Sessions Judge, Tirunelveli in Cr.M.P.No.1489 of 2017, dated 04.04.2017, wherein, the Court below, after considering the contentions raised by the parties therein, had granted anticipatory bail. Aggrieved over the same, the petitioner is before this Court.

3. Though very many averments have been made by the petitioner in this Criminal Original Petition, the entire crux of the affidavit filed by the petitioner reveals that civil dispute is pending between the petitioner and the second respondent. The grievance of the petitioner is that despite the said fact, it is alleged that the second respondent obtained anticipatory bail from



the Court below. Hence, the petitioner is before this Court.

4. The learned Additional Public Prosecutor would submit that since the matter is of civil in nature, the Court below has granted anticipatory bail to the second respondent.

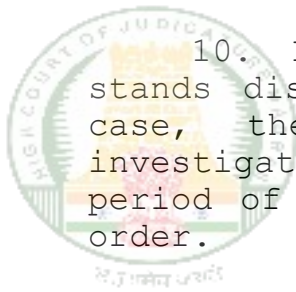
5. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

6. Since the facts have been extensively dealt with by the Court below in CrI.M.P.(MD).No.1489 of 2017 dated 04.04.2017 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?

7. On perusal of the records, it is seen that civil cases are pending between the parties concerned and the Court below while granting anticipatory bail has not adverted into the merits of the case and granted only conditional anticipatory bail that the second respondent should appear before the respondent police daily at 10.30 a.m for one week and the accused should be available as and when required by the respondent. The Court below has also stated that the second respondent shall not directly or indirectly make any inducement threat or promise to any acquainted with the facts and circumstances of him to the Court or police officer. Such stringent condition has been passed while granting anticipatory bail to the second respondent and the defacto complainant has filed the present cancellation of bail fully narrating the civil matters and the matter is also pending before the Revenue Divisional Officer concerned also.

8. Further, a perusal of the affidavit filed in support of the petition would show that no ground has been made out by the petitioner warranting cancellation of the anticipatory bail granted to the second respondent and therefore, the present petition is liable to be dismissed. In this connection, it is useful to refer the case of **(Dolat Ram v. State of Haryana, (1955) 1 SCC 349)**, wherein 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.

9. In this case, there is no changing circumstances warranting cancellation of anticipatory bail granted to the respondent. 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. In fact, the anticipatory bail was granted to the second respondent herein, who is the petitioner/accused therein, after considering the submissions of the intervenor/ the defacto complainant and the learned Public Prosecutor and found that the entire matter is of civil in nature and eventually granted anticipatory bail to the second respondent.



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10. In such circumstances, this criminal original petition stands dismissed. However, in the facts and circumstances of the case, the respondent police is directed to complete the investigation as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order.

sd/-

23/08/2017

/ TRUE COPY /

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

TO

1 THE INSPECTOR OF POLICE
PAVOORCHATHIRAM POLICE STATION, TIRUNELVELI DISTRICT.

2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.SASI KUMAR Advocate SR.No.74446

ssm

CSL/RR-BS/SAR-I/29.08.2017 : 3P/4C

ORDER

IN

CRL OP (MD) No.5216 of 2017

Date : 23/08/2017