



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Crl.RC (MD) Nos.271 & 272 of 2017

Orders Reserved on 26.04.2017

Chappani @ Murugesan : Petitioner in both cases/
Accused No.1

Vs.

The State Rep.by
The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District
(In Crime Nos.54&53 of 2006) : Respondent in both cases /
Complainant

Common Prayer: Revisions are filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order, dated 22.12.2016 made in Crl.M.P.Nos.217 & 218 of 2016 in Special S.C.Nos.27 & 28 of 2007 respectively on the file of the learned Additional District Judge (Fast Track Court), Paramakujdi, Ramanathapuram District and release the petitioner forthwith.

For Petitioner :Mr.M.Jegadeesh Pandian

For Respondent :Mr.P. Kandasamy
Government Advocate(Crl. Side)

COMMON ORDER

The above Criminal Revision Petitions have been filed praying to set aside the order, dated 22.12.2016 respectively made in Crl.M.P.Nos.217 & 218 of 2016 in Special S.C.Nos.27 & 28 of 2007 on the file of the learned Additional District Judge (Fast Track Court), Paramakujdi, Ramanathapuram District and release the petitioner forthwith.

2. The petitioner herein is arrayed as A1 in Crime No.53 of 2006 under Section 120(B), 307, 395 r/w 397 IPC., and in Crime No.54 of 2006 under Sections 120(B), 302 and 396 of IPC., respectively, on the file of the respondent Police. After completing the investigation in both the cases final reports were laid and are pending as S.C.Nos.28 & 27 of 2007 respectively on the file of the learned Additional District Judge (Fast Track Court), Paramakudi, Ramanathapuram District, for examination of



Investigating Officer by the respondent Police.

3. The Petitioner / A1 in S.C.No.28 of 2007 filed bail application in CrI.M.P.No.48 of 2015 and in S.C.No.27 of 2007 filed bail application CrI.M.P.No.47 of 2015, before the learned Additional District Sessions Court, Ramanathapuram and in both the cases, the petitioner was ordered to be released on bail by its order dated 18.03.2015 and both the cases were transferred to the learned Additional District Judge, Fast Track Court, Paramakudi and are pending in that Court. The trial Court issued NBW against the petitioner for his absence on 13.06.2016 in both the cases and while the NBW issued against the petitioner was pending before the Court, the petitioner was produced before the trial Court on 12.07.2016, under the P.T.Warrant and remanded the petitioner into judicial custody in both the cases. Challenging the said order of remand, after producing the petitioner under P.T.Warrant, the petitioner has filed CrI.M.P.Nos.218 of 2016 in S.C.No. 28 of 2007 and CrI.M.P.No.217 of 2016 in S.C.No.27 of 2007 respectively before the trial Court, for recalling the order of remand, dated 12.07.2016, under the P.T.Warrant and those petitions were dismissed by the trial Court / Additional Sessions Court, Paramakudi, Ramanathapuram District by its order dated 22.12.2016. Aggrieved by the order of dismissal, the petitioner / A1 filed the present Revision Petition Nos.271 & 272 of 2017 respectively before this Court.

4. The learned counsel appearing for the petitioner would contend that on the date of issuance of NBW ie., on 13.06.2017, the petitioner was in judicial custody in connection with some other case, though he was granted bail in these cases, he did not come out from the prison and the petitioner was remanded in judicial custody under P.T.Warrant on 12.07.2016, which is against the law. He would further contend that unless the bail bond executed by the petitioner in the pending Criminal Case was forfeited or cancelled by the same Court or superior Court, as per Section 437(5) or 439(2) Cr.P.C., a person already granted bail, but produced under P.T.Warrant under Section 267 of Cr.P.C., cannot be remanded by the Court and such a person shall only be conveyed to the prison and the antecedents of the petitioner need not be necessary for deciding the application to recall filed by the petitioner herein.

5. The learned counsel, in support of his contention, invited the attention of this Court to the Judgment of this Court in **Appu alias Santhakumar and Others Vs. State represented by Inspector of Police, Palavanthangal Police Station, Chennai and Others** reported in **[(2004) M.L.J (CrI.) 440]**, wherein it has been held that "Unless and until the bail is cancelled by the same Court or a superior Court as per Section 437(5) or 439(2) CrI.P.C., or the bail bonds were cancelled for valid reasons, a

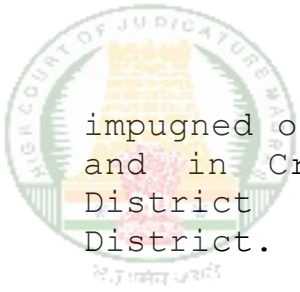


person already granted bail but produced under a P.T.Warrant (under Section 267 CrI.P.C.) cannot be "remanded" by the Court before which he was so produced. Such a person shall only be "conveyed" to prison." The learned counsel has also relied on the decision of this Court in ***Hari @ Man Road Hari Vs. State. Rep. By Station House Officer, Killai Police Station***, reported in **(2008 (1) MLJ (CrI.) 434)** wherein it has been held that "When an accused is produced in pursuance of a P.T.Warrant, he cannot be remanded when the bail bond is in force and no steps taken to cancel the bail". Hence, the remand order is unjustified.

6. The learned Government Advocate (crl.side) appearing for the respondent would submit on the allegation made in the counter by the respondent that the petitioner is a notorious criminal and his name is also entered in the rowdy list from the year 2003 and more than 24 criminal cases have been pending against the petitioner in all over the State and out of which, more than 13 criminal cases are robbery and decoity; more than 2 cases are murder cases and more than 5 cases are attempt to murder cases and there is no illegality in the order of the dismissal, dated 22.12.2016 passed by the learned Additional District Judge (Fast Track Court), Paramakudi, Ramanthapuram District and further the entire trial proceedings of the criminal case is going to an end within a short span of time period and the present Criminal Revision Petitions are devoid of merits.

7. The respondent has categorically admitted in his counter that the petitioner was released on bail on 18.03.2015 and he furnished sureties, but since he was remanded in some other cases, he was not able to release from the prison. It is further stated that while the criminal cases came up for hearing on 13.06.2016 the petitioner neither appears in person nor through his counsel and hence, NBW was issued against the petitioner on 13.06.2016 and therefore P.T.Warrant was issued for production of the accused / petitioner and he was produced before the trial Court on 12.07.2016 and was remanded to judicial custody. It is not denied that the bail granted already to the petitioner by the trial Court is not cancelled by the same Court or by a Superior Court, as per Section 437(5) or 439(2) Cr.P.C., or the bail bonds were cancelled for valid reasons. The antecedents of the petitioner, who is said to be involved in several criminal cases, need not be looked into or not necessary for deciding the issue in the petition filed by the petitioner. Hence, the remand order in pursuance of the P.T.Warrant, while the bail bonds are in force, is unjustified.

8. Considering the above facts and circumstances of the case and also the principles laid down by this Court in the judgment reported in **[(2004) M.L.J (CrI.) 440] and (2008 (1) MLJ (CrI.) 434)** (cited *supra*), this Court is inclined to set aside the



impugned order, dated 22.12.2016, passed in Crl.M.P.No.218 of 2016 and in Crl.M.P.(MD)No.217 of 2016, by the learned Additional District Judge, Fast Track Court, Paramakudi, Ramanathapuram District.

9. In the result, the Criminal Revision Petitions are allowed and the impugned order, dated 22.12.2016, passed in Crl.M.P.Nos.217 & 218 of 2016 in S.C.Nos.27 & 28 of 2007, by the learned Additional District Judge (Fast Track Court), Paramakudi, Ramanathapuram District, is set aside and the petitioner is ordered to be released forthwith, if his presence is not required in connection with any other cases.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1.The Additional District Judge
(Fast Track Court),
Paramakudi,
Ramanathapuram District

2.The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to : The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+2cc to Mr.M.Jagadeesh Pandian, Advocate, SR.67434, 67435

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MPK

KK/SKN RSK/SAR3/25.07.2017/ 4P-7C/