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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.08.2018

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.20111 of 2018

Sathish ... Petitioner

Vs

State rep. by
Station House Officer,
Mudaliarpet P.S.
Puducherry. .. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order dated 17.11.2017 passed in Crl.M.P.No.2172 of 2017 in Crime No.135 of 2017 on the file of learned Judicial Magistrate No.III, Puducherry.

For Petitioner : Mr.S.Pushpakaran

For Respondent : Mr.Bharatha Chakravarthy
Public Prosecutor, Puducherry.

O R D E R

The petitioner was arrested in Mudaliarpet Police Station Crime No.135 of 2017 for the offences under Section 5 r/w 7[3] of Lottery Regulation Act, 1988 and Section 60 D of Information Technology Act, 2000 and was remanded to judicial custody on 19.09.2017. He was granted bail in Crl.M.P.No.2033 of 2017 on 26.09.2017 by the Judicial Magistrate No.III, Puducherry, on condition that after release, he shall appear before the respondent Police twice daily at 10.30 a.m. and 5.30 p.m. for 30 days. After release, the petitioner did not comply with the said condition. Therefore, the Police filed Crl.M.P.No.2172 of 2017 for cancellation of bail before the Judicial Magistrate No.3, Puducherry. In that application, notice was given to the counsel for the accused, who had appeared for the accused in Crl.M.P.No.2033 of 2017. The counsel endorsed no objection and therefore, by impugned order dated 17.11.2017, bail was cancelled by the Judicial Magistrate No.III, Puducherry. In the impugned order, the petitioner has been shown as Sathish instead of the Station House Officer, Mudaliarpet Police Station.

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Challenging the order dated 17.11.2017, the petitioner/accused is before this Court.

2.Heard the learned counsel for the petitioner/accused and the learned Public Prosecutor [Puducherry].

3.Learned counsel for the accused submitted that no opportunity was given to the accused by the Magistrate before cancelling the bail.

4.However, learned Public Prosecutor submitted that after the release of the accused on bail in Crime No.135 of 2017, he was involved in Crime Nos.138 of 2018 and 140 of 2018 on the file of the Mudaliarpet Police Station. He further submitted that the petitioner was granted anticipatory bail in Crime No.138 of 2018 and 140 of 2018. But, however, he did not choose to surrender before the Magistrate and furnish sureties as directed by the Court. Thereafter, the petitioner is continuing to be in abscondence.

5.Taking into consideration the antecedents of the petitioner and the fact that no proper notice was served on the petitioner in Crl.M.P.No.2172 of 2017, this Court directs the petitioner to surrender before the Judicial Magistrate No.III, FAC, Puducherry on 27.08.2018 at 10.30 a.m. and execute a bond for Rs.10,000/- with two sureties. He shall file his counter in Crl.M.P.No.2172 of 2017 on 27.08.2018. Thereafter, the Judicial Magistrate No.III shall give an opportunity of hearing both sides and pass orders on merits.

6.In view of the above directions, the order dated 17.11.2017 in Crl.M.P.No.2172 of 2017 is hereby setaside. If the petitioner does not appear before the Magistrate on 27.08.2018 as directed by this Court, the bail granted to him in Crl.M.P.No.2033 of 2017 would be deemed to have been cancelled.

With the above direction, this petition is ordered accordingly.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.Judicial Magistrate No.III,
FAC, Puducherry.

2.Station House Officer,
Mudaliarpet P.S.
Puducherry.

+1cc to Mr.S.Pushpakaran, Advocate Sr.56191
+1cc to the Government Pleader Sr.56534

CRL.OP.No.20111 of 2018

vsn II[co]
srg 16/08/2018

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