

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.07.2018

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P. No.3983 of 2018

State, rep. by Station House Officer,
T.R.Pattinam Police Station,
Karaikal, Crime No.2 of 2017

Petitioner/ Complainant

Versus

Ezhilarasi

.. Respondent/ Accused

PRAYER : Criminal Original Petition filed under Section 439(2) of Code of Criminal Procedure, to cancel the bail granted in Crl.O.P.No.22513 of 2017 order dated 03.11.2017 in Crime No.02 of 2017 on the file of the petitioner/complainant.

For Petitioner : Mr.Bharatha Chankravathy
Public Prosecutor, Puducherry

For Respondent : R.Vivekananthan

This petition has been filed by the petitioner/complainant to cancel the bail granted to the respondent/accused by this Court vide order dated 03.11.2017 in Crl.O.P.No.22513 of 2017 in Crime No.2 of 2017 on the file of the Station House Officer, T.R.Pattinam Police Station, Karaikal.

2. The case in Crime No.2 of 2017 had been registered against the respondent/accused for the offences under Sections 336, 427, 120(b) r/w 34 of IPC and Sections 3 and 4 of Explosive Substances Act 1908. The case has been registered in respect of the incident that occurred on 03.01.2017 wherein one VMC. Sivakumar, Ex.MLA was murdered. The respondent is arrayed as A1 in this case. This Court by order dated 03.11.2017 in Crl.O.P.No.22513 of 2017 had granted bail to the respondent/accused with condition that the respondent/accused shall stay at Yanam and report before the Yanam Police Station daily at 10.30 a.m, except on the hearing dates of the other cases pending against the respondent/accused until further orders. In pursuant to the bail order, the respondent had executed a bond for Rs.10,000/- with two sureties before the Judicial Magistrate, Karaikal on 07.11.2017 and she was released from the Central Prison, Kalapet, Pondicherry on 08.11.2017 at 11.15 hrs. The release of the respondent and the details of the bail condition imposed by this Court was

intimated by the petitioner/complainant to the Station House Officer, Yanam Police Station through a letter No.1209/GCR/2017 dated 08.11.2017. The main contention raised by the petitioner/complainant is that the respondent had not complied with the conditions regularly and she absented herself on several occasions, thereby an absent report was sent to the petitioner by the Circle Inspector of Police, Yanam on 08.12.2017 and 20.12.2017 vide letter Nos.1328 and 1350/OCY/DR/2017. The petitioner/complainant had also submitted the details of the compliance and non-compliance of the condition by the respondent which reads as follows:

From	To	Present/Absent
14.11.2017	18.11.2017	Present & signed
19.11.2017		Absent
20.11.2017	21.11.2017	Present & signed
22.11.2017		Absent
23.11.2017	25.11.2017	Present & signed
26.11.2017		Absent
27.11.2017	06.12.2017	Present & signed
07.12.2017		Absent
08.12.2017	10.12.2017	Present & signed
11.12.2017	Till date	Absent and absconded.

3. Yet another ground raised by the petitioner for cancellation of bail is that the respondent/accused is involved in several other cases as stated below:.

Sl.N o.	Details of Criminal cases	Police Station	Status of the case
1.	53/13 u/s.143, 148, 341, 120(b), 302 IPC r/w 149 IPC	Neravy ps	Pending trial
2.	322/15 u/s.147, 148, 341, 342, 294(b), 506 (ii), 302 r/w 3(1) of PPDL Act.	Sirkali PS	Pending trial
3.	01/2017 u/s.147, 148, 332, 395, 307, 448, 302, 120(b), 427 IPC r/w 149 IPC and 3 & 4 of Explosive Substances Act 1908.	Neravy PS	Under Investigation
4	266/11 u/s. 147, 148, 307, 324, 323, 354, 506 (ii) r/w 149 of IPC.	Town PS	Pending trial

Sl.N o.	Details of Criminal cases	Police Station	Status of the case
5	77/2016 U/s.384 IPC	T.R.Pattinam PS	Pending trial
6	104/11, U/s.147, 448, 323, 506 r/w 149 of IPC	T.R.Pattinam PS	Pending trial

Further, apprehending the likelihood of the respondent/accused indulging in conspiracy and planning further criminal activities by not complying with the condition imposed by this court and fearing that if she is let to remain on bail, it will be dangerous for the society at large and dangerous to her own life, this petition has been filed seeking cancellation of bail.

4. The learned Public Prosecutor, Puducherry would submit that the respondent/accused has no respect for law and that defiance of the orders of this court had continued to indulge in nefarious activities prejudicial to maintenance of law and order and public order and would submit that the petitioner had misused her liberty and would submit that on the grounds raised by the petitioner, the bail granted to her may be cancelled for non-compliance of condition.

5. The respondent/petitioner/accused has also filed a counter.

6. The learned counsel for the respondent would submit that it is well settled notion of law that in respect of cancellation of bail application the courts are supposed to consider the sequence of events that has occurred or likely to occur after the orders of grant of bail i.e after the grant of bail whether the accused had misused his/her liberty by involving in the same or similar criminal activities or whether he/she interferes with the course of investigation or tampers the evidence or threatens the witnesses or attempts to place himself or herself beyond the reach of surety. He would further submit that in the present case, the respondent had neither misused the liberty given to her nor indulged in the same or similar activities which are prejudicial to the safety of the general public. He would further submit that the condition imposed by this Court is that she should stay at Yanam and she was given exception to appear on the hearing dates or such other hearing dates in respect of the cases which are pending against her. He would further submit that the respondent was at the relevant time facing trial before the Additional Sessions Judge, Karaikal in S.C.No.3 of 2016 and that on 25.01.2018, the above said case in SC No.3 of 2016 was posted for questioning under Section 313 of Cr.P.C He would further submit that on 25.01.2018, she had appeared before the Additional Sessions Judge, Karaikal in S.C.No.3 of 2016 and after completion of proceeding, the case was posted for judgment on 30.01.2018 and while she was staying back for attending the court proceedings on 30.01.2018, a case was

registered by the D Nagar Police Station in Crime No.21 of 2018 for the offences under Sections 120-B r/ 34 of IPC and Section 3 of the Arms Act and later, the sections were altered to Section 302 r/w 120B r/w 34 of IPC and Section 3 of Arms Act and that she was also arrested on 30.01.2018. While she was in custody in Crime No.21 of 2018, she got acquitted in S.C.No.3 of 2016. The learned counsel for the respondent would further submit that the petitioner had not wantonly or wilfully refused to comply with the condition, only in the circumstances stated above, she was unable to comply with the condition and would submit that by their own acts the petitioner/police had put her in a predicament of non-compliance of the condition and would submit that the non-compliance of the condition was neither willful nor wanton and that it was beyond her control. He would further submit that the petition filed by the petitioner/accused would expose the grudge and premeditated action of the petitioner. However, he would further submit that there are other cases pending against her and would submit that the respondent/accused undertakes to strictly comply with the condition hereinafter. The details of the cases pending against the respondent/accused are given hereunder:

S.No .	Hearing Date	Court	Details of the case	Police Station
1	--	J.M.Karaikal	Crime No.53 of 2013, 143, 148, 341, 120B, 302 IPC r/w 149 IPC (Charge sheet filed, not taken on file.)	Neravy Police Station
2	05.07.2018	J.M. Sirkazhi PRC No.45 of 2015	Crime No.322 of 2015 147, 148, 341, 342, 294(B), 506(ii), 302 of IPC and r/w 3(1) of TNPPDL Act	Sirkazhi Police Station
3	---	J.M, Karaikal	Crime No.1 of 2017 147, 148, 332, 395, 307, 448, 302, 120-B, 427 r/w 149 and 3 & 4 of Explosives Substance Act (Charge sheet filed, Not taken on file)	Neravy Police Station
4	09.08.2018	J.M.Karaikal C.C.No.167 of 2017	384 IPC	T.R.Pattina m Police Station
5	06.07.2018	J.M.Karaikal STR No.921 of 2011	147, 448, 323, 506 (ii) r/w 149	T.R.Pattina m Police Station

S.No .	Hearing Date	Court	Details of the case	Police Station
6	02.07.2018	J.M Karaikal PRC No.6 of 2017	Crime No.2 of 2017 336, 427, 120B r/w 34 IPC and 3 and 4 of Explosives Substances Act.	T.R.Pattina m Police Station

The learned counsel for the respondent/petitioner/accused would further submit that the respondent being a lady may be permitted to continue to comply with the condition to stay at Yanam and report before the Yanam Police Station daily at 10.30 a.m on all dates excepting the dates in which, in the above cases against her are posted and would pray that the affidavit of undertaking filed by her before this Court may be taken into consideration and the petition may be closed.

7. I have gone through the petition and the counter filed by the respondent and also the affidavit of undertaking filed by the respondent/accused, agreeing to appear before the Yanam Police for further period as directed by this Court.

8. Taking into consideration the facts of the case and the submissions made by the respondent, I am inclined to close the petition with condition that the petitioner shall stay at Yanam and report before the Yanam Police Station every day at 10.30 a.m excepting the dates in which she has to appear before the courts for hearing in all the pending cases against her and on such date of appearance before the concerned courts, the petitioner shall duly inform the Inspector of Police, Yanam and the petitioner namely, the SHO, T.R.Pattinam P.S.Karaikal with regard to her departure from Yanam in respect of her appearance before the respective courts and the date of her return to Yanam to comply with the conditions.

9. The conditions imposed above shall be strictly complied with hereinafter.

10. With these observations, this petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

uma

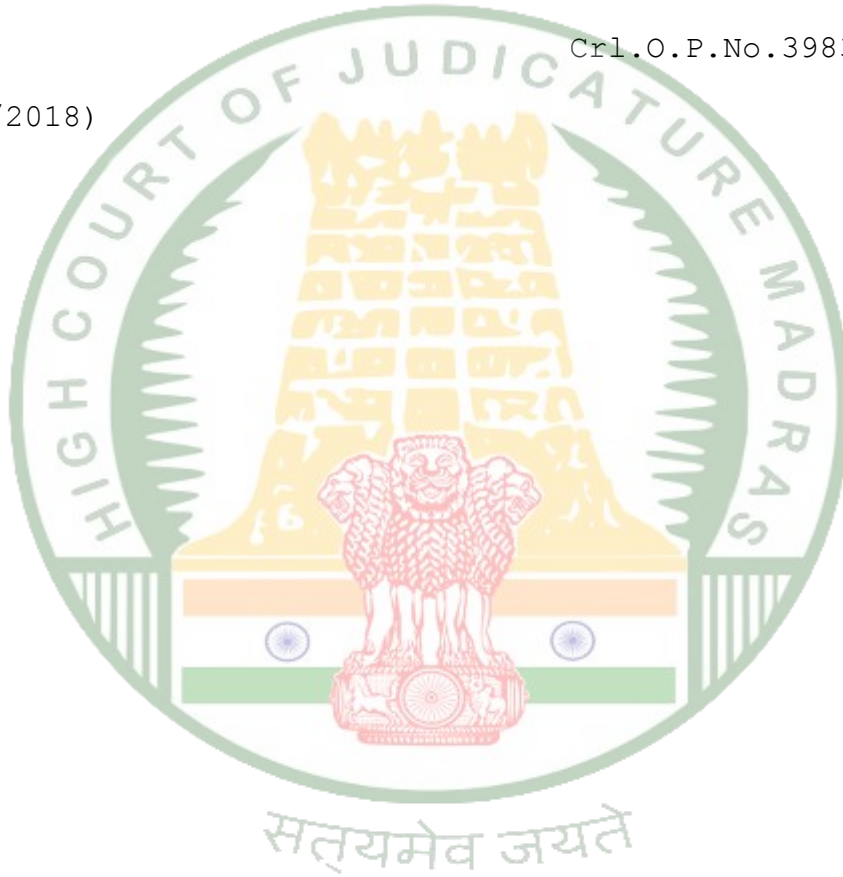
To

1. The Station House Officer,
T.R.Pattinam Police Station,
Karaikal, Puducherry
2. The Public Prosecutor,
Puducherry.
3. The Inspector of Police,
yanam police station.

+1cc to MR.R.VIVEKANANDAN, Advocate S.R.No.45188

Cr1.O.P.No.3983 of 2018

ASK(11/07/2018)



WEB COPY