



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

Wednesday, the Twenty Seventh day of June Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) No.10128 of 2018

THE REGISTRAR (JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

... PETITIONER

Vs

1 KALAISELVAM

... RESPONDENT / ACCUSED No.1

2 THE INSPECTOR OF POLICE
C.S.C.I.D, VIRUDHUNAGR DISTRICT,
CRIME NO.142/2017

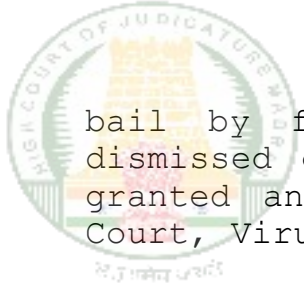
... RESPONDENT / COMPLAINANT

For Petitioner : Advocate

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to cancel the anticipatory bail granted to the 1st respondent/accused no.1 in crime number 142/2017 on the file of 2nd respondent by the order dated 23/03/2018 in CRL.M.P.No.1329/2018 on the file of the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur.

ORDER : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of REGISTRAR JUDICIAL for the petitioner, and of Mr.N.DILIP KUMAR, Advocate for R1, and Mr.A.ROBINSON, Government Advocate for R2, and the court made the following order:-

The first respondent was shown as the first accused in Crime No.142 of 2017. The said First Information Report came to be registered following the seizure of 91/2 Tonnes of PDS Rice. The contraband was found in two vehicles. The Police party arrived on the spot. Four of the accused appear to have ran away on seeing them. But the two vehicles and two two-wheeler including the one bearing Registration No.TN 64 C 9380 were seized. The persons who were arrested spilled the beans implicating the first accused. Kalaiselvam was the eventual purchaser of the contraband. The two-wheeler bearing No. TN 64 C 9380 which was seized from the spot belongs to Kalaiselvam. The second accused is one Ramesh, who is the Manager of the Fair Price Shop. He applied for anticipatory



bail by filing CrI.O.P.(MD).No.3320 of 2018. The same was dismissed on 2nd March 2018. But the first respondent herein was granted anticipatory bail by the Principal District and Sessions Court, Virudhunagar at Srivilliputhur on 23.03.2018.

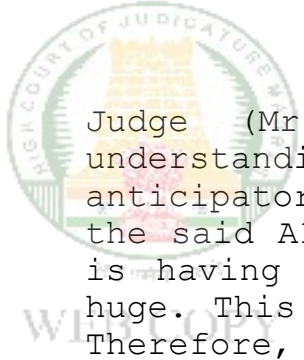
2. Based on the aforesaid order, the second accused Ramesh renewed his application before me. When I posed a question to the learned counsel as to what is the change in circumstance, the learned counsel informed me that the first accused has been granted anticipatory bail and that therefore there was no reason for denying the relief of anticipatory bail to the second accused. There upon this Court called upon the Prosecution to file a memo as to whether the Sessions Court was informed about the factum of dismissal of the anticipatory bail petition filed by the second accused. Memo was filed before this Court by the Prosecution that the Sessions Court was already intimated about this fact.

3. Thereafter, I called for explanation from the concerned Judicial Officer. The explanation given by the Judicial Officer makes a very strange reading. The Judicial Officer has taken a stand that he was not even aware that it was a case of smuggling of PDS Rice. Since the order granting anticipatory bail in favour of the first respondent has not taken into account the relevant materials and since it has taken into account the irrelevant materials, this Court issued *Suo-motu* notice for cancellation of the said order.

4. In response to the said notice, the first accused has entered appearance through Mr. Dilip Kumar, learned counsel.

5. The learned counsel appearing for the first respondent submits that the order granting anticipatory bail in his favour was made as early as on 23.03.2018. More than three months have lapsed since then. The first respondent has not been shown to have misused his liberty. He has scrupulously complied with the conditions imposed on him by the Sessions Court. Some of the accused have been granted bail while a few of them have been granted anticipatory bail. Investigation is almost over. He therefore submitted that in the interest of justice this Court should not interfere with the order passed by the Sessions Court.

6. This Court gave its anxious consideration. This Court is of the view that the majesty of the law will have to be necessarily upheld. The second accused, who is the Manager of the Fair Price Shop had applied for anticipatory bail before this Court on 02.03.2018. Relief was denied to him. Therefore, granting anticipatory bail that too by the Sessions Court to the first accused 20 days later shocks the conscience of this Court. The Government Advocate has filed a memo before this Court specifically stating that the factum of dismissal of anticipatory bail petition filed by the second accused was duly intimated to the Sessions Court, Virudhunagar. The explanation given by the learned Sessions



Judge (Mr.K.Singaraj) gives an impression that without even understanding the factual matrix, he has recklessly granted anticipatory bail to the principal accused. It is to be noted that the said A1 was earlier detained under Preventive Detention Law. He is having two previous cases also. The quantity of contraband is huge. This Court records its displeasure over his judicial conduct. Therefore, this Court is left with no other option, but to set aside the order dated 23.03.2018 and to cancel the anticipatory bail granted to the first respondent herein. Accordingly, the order dated 23.03.2018 is set aside and the bail granted to the first respondent is cancelled.

7.This Criminal Original Petition stands allowed.

sd/-
27/06/2018

/ TRUE COPY /

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

TO

- 1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, VIRUDHUNAGAR AT
SRIVILLIPUTHUR
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI
- 3 THE INSPECTOR OF POLICE
C.S.C.I.D, VIRUDHUNAGR DISTRICT,

+1 CC TO Mr. DILIP KUMAR , Advocate, Sr.No. 11526

rsg

JAM/28/06/2018/ PN/RNB/ 3P-5C

ORDER
IN
CRL OP(MD) No.10128 of 2018
Date :27/06/2018