

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Sixth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.8975 of 2019

C.PALANISAMY

[PETITIONER / DEFACTO COMPLAINANT]

Vs

1 THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
VADAVALLI POLICE STATION,
COIMBATORE DISTRICT.
CR.NO.125 OF 2018.

[RESPONDENTS/ACCUSED]

2 SANTHOSH KUMAR
3 JAYA
4 VELUMANI
5 RAMESH BABU
6 DHANALAKSHMI

Petition praying that in the circumstances stated therein the High Court will be pleased to cancel the anticipatory bail granted to the respondents / accused 2 to 6 herein by order dated 08.06.2018 passed in CrI.O.P.No.14862 of 2018 on the file of the this Hon'ble court.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.M.SANTHANARAMAN, Advocate for the petitioner and of MR. K.PRABAKAR, Additional Public Prosecutor on behalf of the 1st Respondents, and of M/S.V.SASI REKHA, Advocate on behalf of the 2nd & 8th Respondents, the court made the following order:-

The petition has been filed seeking to cancel the Anticipatory Bail granted to the respondents No.2 to 6 in CrI.O.P.No.14862 of 2018 dated 08.06.2018.

2. The petition has been filed by the defacto-complainant stating that he lodged a complaint before the 1st respondent against the respondents Nos.2 to 6 herein and others in respect of cheating committed by them by misrepresenting him that if the defacto-complainant invests Rs.3 Crores in Iridium business, he will get double profit and thereby made him to part with a huge sum of Rs.3

Crores, which he had borrowed from various sources and the accused cheated him by not paying the amount as assured and thereby misappropriated the sum of Rs.3 Crores paid by him.

3. The petitioner/defacto-complainant would further submit that on the complaint given by him, a case was registered on 25.05.2018 in Cr.No.125 of 2018 on the file of Vadavalli Police Station for the offence punishable under Sec.420 IPC. The respondents 2 to 6 herein have filed a petition in CrI.O.P.No.14862 of 2018 and this Court by Order dated 08.06.2018 granted anticipatory bail to them.

4. The learned counsel for the petitioner/defacto-complainant would further submit that the respondents 2 to 6 have cheated many innocent public and several complaints were lodged against them and suppressing all these facts, the respondents have got pre-arrest bail and on enquiry, the petitioner came to know that the respondents are involved in the offence of similar in nature and a case has been registered in Cr.No.344 of 2018 by the Inspector of Police, Satyamangalam Police Station on 14.07.2018. The learned counsel would further submit that the respondents No.2 to 6 are habitual offenders of cheating innocent public and by exerting undue influence on them with their ill-gotten money, they are trying to suppress the evidence and threaten the witnesses. He would submit that since the respondents have involved themselves in a subsequent offence of similar nature, the anticipatory bail has to be cancelled in view of proviso to Sec.437(3)(b) of Criminal Procedure Code and proviso to Sec.438 (2)(iv) of Criminal Procedure Code. Therefore, the petitioner has filed the present petition, seeking for the above relief.

5. The respondents No.2 to 6 have filed counter denying the averments mentioned in the affidavit, filed in support of the petition for cancellation of anticipatory bail. The respondents would submit that anticipatory bail was granted on 08.06.2018 with the condition that the respondents No.2, 4 and 5 herein shall report before the respondent therein daily at 10.30 a.m until further orders and the respondents 3 and 6 herein shall report before the respondent therein as and when required for interrogation.

6. The learned counsel for the respondents would further submit that they have duly complied with the condition imposed by this Court and thereafter, the 2nd respondent herein has filed a petition in CrI.M.P.No.9571 of 2018, seeking to relax the condition imposed by this Court and this Court, by Order dated 23.07.2018, modified the condition to the effect that the 2nd respondent herein shall report before the police once in a month i.e., the first day of every month at 10.30 a.m until further orders.

7. The learned counsel would further submit that yet another case was registered against them in Cr.No.125/2018 in respect of the offence said to have been committed during December 2017 and they have approached this Court by filing a petition in CrI.O.P.No.13473 of 2018 and this Court by Order dated 05.05.2018 granted anticipatory bail to them with the condition that they shall report before the

police daily at 10.30 a.m for a period of three weeks and thereafter as and when required.

8. The learned counsel for respondents would further submit that petition for anticipatory bail was filed at the stage of pending of petition enquiry and thereafter, a case was registered in Cr.No.125 of 2018 on 25.05.2018 by the Satyamangalam Police and there is absolutely no suppression of the facts by the respondents and as per the directions of this Court, they are duly complying with the condition imposed.

9. The learned counsel for the respondents would further submit that the case registered by Satyamangalam Police in Cr.No.344 of 2018 pertains to an offence, alleged to have been committed, prior to the respondents' obtaining anticipatory bail i.e., the date of occurrence is before seven months from 14.07.2018 which would be somewhere during December 2017, whereas, the respondents have approached this Court and obtained anticipatory bail during the month of June 2018 and she would state that the provisions of Sec.437(3)(b) of Criminal Procedure Code will not be applicable to the case of the petitioner since the offence, alleged to have been committed by the respondents, is prior to the respondents' obtaining anticipatory bail. i.e. the date of occurrence is before seven months from 14.07.2018 and it would be somewhere during December 2017 and information have been received by the police on 14.07.2018 and the respondents have been granted anticipatory bail on 08.06.2018 in CrI.O.P.No.14862 of 2018. The learned counsel would further submit that the offences alleged are pertaining to the incidents before obtaining Anticipatory Bail and that the respondents have not indulged in any offence after obtaining Anticipatory Bail dated 08.06.2018.

10. The learned Additional Public Prosecutor would submit that after the respondents have been granted anticipatory bail on 08.06.2018, as per the instructions, the respondents have not been brought to any adverse notice or committed any offence subsequent to 08.06.2018

11. Heard the learned counsel for all the parties and perused the materials available on record.

12. On perusal of the records, it is seen that the respondents have not involved in any offence after obtaining of anticipatory bail by this Court on 08.06.2018. There is no suppression in this case also.

13. In view of the above, this Court is of the considered view that the petitioner/defacto-complainant has not made out any valid ground for cancellation of bail.

14. Therefore, the petition stands dismissed.

-sd/-
26/07/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE INSPECTOR OF POLICE,
VADAVALLI POLICE STATION,
COIMBATORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.M.SANTHANARAMAN Advocate on payment of necessary charges SR.NO.15524

CRL OP.8975/2019

Date: 26/07/2019

TA-30/07/2019

सत्यमेव जयते

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