

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.Nos.21495 and 21500 of 2019

T.P.Saravanavel

... Petitioner/Defacto Complainant in both
Crl.OPs

Vs.

1.Amudha

...1st Respondent/Accused No.2 in
Crl.O.P.No.21495 of 2019

2.T.P.Balamurugan

@ T.P.Balamurugananthan

...1st Respondent/Accused No.1 in
Crl.O.P.No.21500 of 2019

3.The Inspector of Police,
Central Crime Branch Team - II,
Vepery,
Chennai District.
Crime No.134 of 2016)

... 2nd Respondent/Complainant
in both Crl.OPs

Common Prayer: Criminal Original Petitions filed under Section 439(1)Cr.P.C. praying to cancel the order granted anticipatory bail to the 1st Respondent in Crl.O.P.No.12130 of 2018 and the 1st Respondent in Crl.O.P.No.12187 of 2018 dated 31.10.2018 on the file of this Court.

For Petitioner in both Crl.OPs : M/s.D.Gopal

For Respondents in both Crl. Ops: M/s.N.D.J.Ravi Ananth for R1
: Ms.T.P.Savitha for R2
Government Advocate (Crl.Side)

COMMON ORDER

These petitions have been filed to cancel the order granted anticipatory bail to the first Respondent in Crl.O.P.No.12130 of 2018 and the first Respondent in Crl.O.P.No.12187 of 2018 both dated 31.10.2018 on the file of this Court.

2.The accused Nos.1 and 2 earlier occasion approached this Court in CrI.O.P.No.12130 of 2018 and CrI.O.P.No.12187 of 2018 for seeking anticipatory bail. This Court granted anticipatory bail in CrI.O.P.Nos.12130 and 12187 of 2018 to the accused Nos.1 and 2 on condition that:

"(a) the petitioners shall deposit a sum of Rs.30,00,000/- (Rupees Thirty Lakhs Only) to the credit of Cr.No.134 of 2016 before the CBCID and CCB Special Court, Allikulam, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the CBCID and CCB Special Court, Allikulam, shall obtain an affidavit of undertaking from the defacto complainant stating that in the event of the petitioners succeeding the case, the amount of Rs.30 Lakhs deposited by the petitioners to the credit of Cr.No.134 of 2016 will be returned to the petitioners and after obtaining such affidavit of undertaking from the defacto complainant, shall disburse the said amount to the defacto complainant within a period of two weeks thereafter;

(b)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass book to ensure their identity;

(c)the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders;

(d)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioners shall not abscond either during investigation or trial;

(f)on breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC."

3.For not complying the conditions imposed by this Court, the cancellation of bail application has been filed before this Court.

4.The learned Government Advocate (Crl.Side) appearing for second respondent would submit that this Court by its order dated 30.10.2018, imposed a condition that the accused Nos.1 and 2 to deposit a sum of Rs.30,00,00/- within a period of six weeks from the date of receipt of a copy of this order. The order was passed on 31.10.2018, till date, the amount was not deposited. Further, he would submit that the accused Nos.1 and 2 also not executed the sureties bond as well as not report before the respondent Police.

5.The learned counsel appearing for accused Nos.1 and 2 would submit that the onerous condition cannot be imposed while considering the bail and it is a private dispute between the accused persons and defacto complainant and in support of his contention, he relied upon two judgments of Hon'ble Supreme Court viz., (i) (2009) 12 SCC 769 and (ii) (2013) 15 SCC 570.

6.Considering the facts and circumstances, earlier occasion this Court granted anticipatory bail to the accused Nos.1 and 2 on the ground that the learned counsel appearing for the accused Nos.1 and 2 therein on instruction, would submit that the accused Nos.1 and 2 are ready to deposit Rs.30 lakhs to the credit of Cr.No.134 of 2016 and the said amount shall be disbursed to the defacto complainant thereafter. Recording the said submission, the anticipatory bail was granted with condition. Now, the learned counsel appearing for the accused Nos.1 and 2 would submit that the onerous condition cannot be accepted. Even today, the order was not complied with.

7.Considering the above facts and circumstances, this Court is inclined to cancel the anticipatory bail granted to the accused Nos.1 and 2 in Crl.O.P.Nos.12130 and 12187 of 2018.

8.Accordingly, these criminal original petitions are allowed and the anticipatory bail granted to the accused Nos.1 and 2 in Crl.O.P.Nos.12130 and 12187 of 2018 on 31.10.2018 by this Court is hereby cancelled.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The CBCID and CCB Special Court,
Allikulam.
2. The Inspector of Police,
Central Crime Branch Team - II,
Vepery,
Chennai District.
Crime No.134 of 2016)
3. The Public Prosecutor,
High Court of Madras,
Chennai.

+2cc to Mr.D.Gopal, Advocate, S.R.No.93883 & 93884

CRL.O.P.Nos.21495 and 21500 of 2019

RSV(CO)
GN(12/12/2019)