

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.11.2019

C O R A M

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

Crl.O.P.No.22108 of 2019

Athinarayanan subramanian alias Shiva

...Petitioner

Vs.

1.K.Nagendran

2.State rep. by

The Inspector of Police,
Central Crime Branch-I,
Chennai-600 007.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 439 (ii) of Cr.P.C., to cancel the Anticipatory bail granted to the Respondent / Accused-4 in Crl.O.P.No.18009 of 2018 dated 27.08.2018.

For Petitioner: Mr.B.Sudhan Raj

For R1 : Mr.C.Kanagaraj

For R2 : Mr.T.P.Savitha

Government Advocate (Crl. Side)

O R D E R

This Criminal original petition has been filed, seeking to cancel the Anticipatory bail granted in favour of the Respondent / Accused-4 in Crl.O.P.No.18009 of 2018 dated 27.08.2018.

2.The case of the prosecution is that the defacto complainant is having a consultancy firm in New Jerney, USA, alter liquidated the firm in abroad he came to India as his only son was ill. He had transferred large amount of money value about Rs.3 Crores from USA and the same was deposited in the NRO/NRI Account with ICICI Bank, Porur Branch, Chennai in the year 2014. On January 2014 a common friend introduced the 1st Accused and other accused persons, the 1st Accused is the very influenced person and the Member of Parliament, he had vide contact, he is getting scrap iron/Steel and send quarry business. He promised the defacto complainant that if he invests the money, he would earn Rs.50,000/- per day. Hence, a huge amount was transferred by way of cheque through RTGS to the tune of Rs.2,18,00,000/- between 11.01.2014 and 30.09.2014. Believing the representations made by the accused

persons to be true. Accordingly out of Rs.2,18,00,000/- a sum of Rs.50,00,000/- were transferred by the defacto complainant to the petitioner in order to get licence for the purpose of sand quarry.

3.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. side) appearing for the second respondent.

4.The Learned counsel for the petitioner/Defacto complainant submitted that A4/1st respondent herein is a very close aid and family friend of 1st Accused. 1st Accused introduced 4th Accused to the defacto complainant as his benami person and he is running a sand quarry business. Hence the defacto complainant transferred a sum of Rs.50 lakhs to the account to 4th Accused at instigation of 1st Accused and also entered into an unregistered agreement in which he and one Naganathar Sethupathy who is A3 in the FIR signed as witnesses.

5. The 5th Accused has been arrested on 03.07.2017 and remanded to Judicial custody and later released on bail but no other accused had been arrested till date. In the meantime, 4th Accused and 7th Accused were granted Anticipatory bail by this Court.

6.The petitioner/ Defacto complainant herein had appeared and opposed for grant of Anticipatory bail by filing an intervening petition in Crl.M.P.No.9921 of 2018. This Court, in the interest of justice, apart from other conditions, directed 4th Accused to deposit a sum of Rs.40 lakhs within the period specified in the order and permitted the defacto complainant to withdraw the said amount. 4th Accused has not complied with the condition imposed by this Court and he has not deposited the amount. Hence, the defacto complainant prays to cancel the anticipatory bail granted to 4th Accused. As against the conditional order, 4th accused preferred an SLP (Crl.) No.8673 of 2018 before the Hon'ble Supreme Court, wherein, while confirming the conditional order passed by this Court, granted four weeks time to the 4th accused to deposit the amount of Rs.40,00,000/- as interim protection.

7.The learned counsel for the first respondent as well as the learned Govt. Advocate (Crl. Side) were heard on the submissions made by the learned counsel for the petitioner. Admittedly, the conditional order dated 27.08.2018 by this Court was not complied with by the 4th accused. The order of the Supreme Court passed in S.L.P.No.(Crl.) No.8673 of 2018 was also not complied with and the time granted for four weeks to deposit 4 lakhs as directed, has also lapsed. In such circumstances, since the 4th accused has failed to comply with the order passed by this Court as well as the Hon'ble Supreme

Court, which is a condition precedent for grant of bail, the 4th accused is not entitled to be enlarged on anticipatory bail. Therefore, a prima facie case is made out by the petitioner/ defacto complainant to cancel the order granting anticipatory bail to the 4th accused.

Accordingly, the Criminal Original Petition is allowed and the order dated 27.08.2018 granting anticipatory bail to the 4th accused is hereby cancelled.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsn

To

- 1.The Inspector of Police,
Central Crime Branch-I,
Chennai-600 007
2. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No. 22108 of 2019

rp[col]
srg 09/12/2019

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