

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

Date : 21/08/2019

PRESENT

The Hon'ble Mr.Justice P.RAJAMANICKAM

CRL MP (MD) . No.4301 of 2019

in

CRL OP (MD) . No.11293 of 2013

V.Balakrishnan

... Petitioner/De-facto Complainant

Vs

1. Vasudevan ...1st Respondent/Petitioner
2. State representation by
Inspector of Police,
Srivilliputhur Taluk Police Station,
Virudhunagar District
(in Crime No.8/2013). 2nd Respondent/Complainant

For Petitioner : M/s.M.Jothibasu,
Advocate.

For Respondent

No.1 : Mr.P.Ganapathy Subramanian
Advocate

No.2 : Mr.V.Neelakandan,
Additional Public Prosecutor

Petition for cancellation of anticipatory bail under Section
482 of Cr.P.C.

PRAYER :-

To cancel the Anticipatory bail granted to the 1st respondent
on 17.09.2013 in Crl.OP(MD)No.11293/2013.

ORDER : The Court Made the following order :-

This petition has been filed by the defacto complainant to
cancel the anticipatory bail which was granted to the first
respondent herein/accused by this Court in Crl.O.P(MD) No.11293 of
2019.

2. The learned counsel for the petitioner would submit that the
first respondent got licence for quarrying operation in respect of
his patta land situated in S.No.588/1 in Nachiarpatti Village,
Srivilluputhur Taluk, but the first respondent by using the said

license has taken stones in poramboke land and caused a loss of Rs.28,23,645/- to the Government and with regard to the same, the petitioner herein has lodged a complaint before the respondent police and based on the same the respondent police has registered a case on 14.02.2013 in Crime No.08 of 2013 under Sections 451,379,506(ii) of IPC and Section 3 of TNPPDL Act. He further submitted that the first respondent has filed Cr.M.P.No.2019 of 2013 on the file of the Principal Sessions Judge, Viruthunagar District at Srivilliputhur seeking anticipatory bail. The learned Principal Sessions Judge by the order dated 12.04.2013 has granted anticipatory bail to the first respondent on condition that he shall deposit 1/3rd amount with the District Collector, Virudhunagar District on or before 25.04.2013, failing which the said order shall stand dismissed. He further submitted that without following the aforesaid order, the first respondent has filed CrI.O.P(MD) No. 7567 of 2013 before this Court seeking anticipatory bail. This Court dismissed the said petition by the order dated 09.05.2013. Thereafter the first respondent has filed second anticipatory bail petition before this Court in CrI.O.P(MD) No.11293 of 2013, suppressing the fact that he has already filed anticipatory bail application before the Sessions Court and subsequently CrI.O.P(MD) No. 7567 of 2013 has been filed before this Court. Further he has submitted before this Court that he has filed second appeal before the Government against the order passed by the District Collector, Viruthunagar and the same is pending and on considering the submissions this Court has granted anticipatory bail to the first respondent on 17.09.2013. He further submitted that actually the first respondent has not filed any appeal against the order passed by the District Collector and hence the petitioner has sent a representation to the District Collector, Viruthunagar District on 07.10.2013 seeking particulars as to whether the accused has filed any appeal to the Government against the order of the District Collector, but no reply has been received from the District Collector. Hence the petitioner has sent a complaint to the Director General of Police and for that also there is no reply and hence he sent representation to the District legal Services Authority at Srivilluputhur and the District Legal Services Authority has forwarded the said representation to the Director of Geology and for that also there is no reply and hence the petitioner has filed the present petition. He further submitted that since the first respondent has obtained anticipatory bail by suppressing the material facts and also by misrepresenting the fact that he has filed appeal to the Government against the order of the District Collector, he requests to cancel the anticipatory bail which was granted to the first respondent in CrI.O.P(MD) No.11293 of 2013 dated 17.09.2013.

3. Per Contra, the learned counsel for the first respondent/accused would submit that Revenue Divisional Officer, Sivakasi has passed an order stating that the first respondent herein has violated the licence and hence he has to pay a sum of Rs.28,23,645/- to the Government. As against the same, the first

respondent has filed an appeal before the District Collector, Virudhunagar. The District Collector, Virudhunagar by the proceedings dated 20.12.2012 has dismissed the said appeal and confirmed the order passed by the Revenue Divisional Officer, Sivakasi. Aggrieved by the same, the first respondent has filed further appeal before the Commissioner of Geology and Mines Department, Guindy, Chennai on 17.01.2013 and the same is pending. He also produced a copy of the summons issued by the Commissioner of Geology and Mines Department, Chennai dated 04.08.2015. He further submitted that the first respondent has not suppressed any facts in his petition in CrI.O.P(MD) No.11293 of 2013. The first respondent has also mentioned in the aforesaid petition with regard to the order passed by the Sessions Court and also the dismissal order passed by this Court in CrI.O.P(MD) No.7567 of 2013 and only after considering the aforesaid facts this Court has granted anticipatory bail by the order dated 17.09.2013. He further submitted that the petitioner is not an aggrieved person and he will not come under the definition of victim and as such he has no *locus standi* to file this kind of petition and only with a view to harass the first respondent the petitioner has sent petitions after petitions to various authorities and also filed the present petition to cancel the anticipatory bail nearly after six years and therefore he prayed to dismiss the petition.

4. The learned Additional Public Prosecutor would submit that based on the complaint given by the petitioner, First Information Report has been registered and after investigation charge sheet has been filed and the case was committed to the Court of Sessions in S.C.No. 08 of 2019, which is still pending before the Sessions Court, Srivilluputhur for trial. He further submitted that the first respondent has not suppressed any facts. Hence he requested to pass appropriate orders.

5. It is seen from records that the petitioner herein has lodged a complaint before the second respondent police and based on the same First Information Report has been registered on 14.02.2013 in Crime No.08 of 2013 under Sections 451,379,506(ii) of IPC and Section 3 of TNPPDL Act. In the said complaint he has stated that the first respondent gave criminal intimidation to him and hence he will come under the definition of the victim and as such he has having *locus standi* to file the present petition.

6. On coming to the facts of the case that in CrI.O.P(MD) No. 11293 of 2013, the first respondent has categorically stated that earlier petition filed by him in CrI.O.P(MD) No. 7567 of 2013 seeking anticipatory bail was dismissed on 09.05.2013 on the ground that he did not comply with the order passed by the learned Principal Sessions Judge, Srivilluputhur. Further, today the learned counsel for the first respondent has produced a copy of the notice received from the Commissioner of Geology and Mines Department, Guindy, Chennai dated 03.08.2015, in which it is stated that first respondent herein has filed further appeal against the order passed

by the District Collector, Viruthunagar. So , it is clear that the first respondent has filed further appeal against the order passed by the District Collector before Commissioner of Geology and Mines Department and the same is pending. Therefore it cannot be said that the first respondent has suppressed material facts and also misled the Court and obtained anticipatory bail in CrI.O.P(MD) No. 11293 of 2013.

7. This Court does not find any merit in the petition and hence the petition is dismissed.

sd/-
21/08/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE,
UTHAMAPALAYAM, THENI DISTRICT.
- 2.-do-thro-THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
3. THE SUPERINTENDENT, THE CENTRAL PRISON, MADURAI.
4. THE OFFICER INCHARGE, DISTRICT PRISON, THENI.
5. THE INSPECTOR OF POLICE
CHINNAMANUR POLICE STATION, THENI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.4301 of 2019
IN
CRL OP (MD) No.11293 of 2013
Date :21/08/2019

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ES/PN/SAR3/28.08.2019/4P/7C