



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

Date : 21/11/2019

PRESENT

WEB COPY

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

CRL MP(MD). No.10040 of 2019
in
CRL OP(MD). No.13688 of 2019

K.Nagaraj ... Petitioner/Defacto
Complainant

Vs

1.The State rep.by
The Deputy Superintendent Of Police,
Ramanathapuram.

2.The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
Crime No.278/2019

3.Dinesh Prabhu ... Respondents

For Petitioner : M/s.G.Thiruvavutselvan,
Advocate.

For R-1 & R-2 : Mr.A.Robinson,
Government Advocate (Crl.Side).

For R-3 : Mr.G.Vishnuram, Advocate

PETITION FOR CANCELTION OF ANTICIPATORY BAIL Under Sec.439
(2) of Cr.P.C.

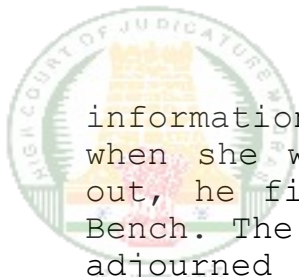
PRAYER :-

To cancel the Anticipatory Bail to the petitioner granted by
this Honorable Court in Crl.OP (MD) No.13688/2019 dated 27.09.2019.

ORDER : The Court Made the following order :-

The third respondent herein Dinesh Prabhu is figuring as the
first accused in Crime No.278 of 2019 on the file of Paramakudi Town
police station, Ramanathapuram, registered for the offence under
Section 366(A) of I.P.C.

2. The defacto complainant is one Nagaraj. His case is that
his daughter was found missing for five days and his definite



information was that the third respondent herein had kidnapped her, when she was going to school. Since the girl could not be traced out, he filed H.C.P.(MD)No.910 of 2019 before the Hon'ble Division Bench. The case was listed on 23.09.2019. The Hon'ble Division Bench adjourned the case to 30.09.2019 with a direction that the police should intimate the Court as to whether accused No.1 that is Dinesh Prabhu was secured and whether the statement under Section 164 of Cr.P.C. was recorded from the minor girl. In the meanwhile, the third respondent herein filed Crl.O.P.(MD)No.13688 of 2019 before this Court. When the petition for anticipatory bail was listed before me on 27.09.2019, it was stated that the girl was produced before the Hon'ble Division Bench pursuant to the filing of H.C.P. (MD)No.910 of 2019.

3. I went through the statement of the victim girl and formed a opinion that it is a case of consensual relationship. In that view of the matter, I granted anticipatory bail to the accused. Thereafter, the defacto complainant has filed this petition before this Court for cancelling the anticipatory bail granted to the accused. Only then, I became aware of the direction given by the Hon'ble Division Bench on 23.09.2019. The order dated 30.09.2019 passed by the Hon'ble Division Bench deserves to be extracted as follows:-

"Pursuant to the orders passed by this Court on 23.09.2019, the case has been posted today before this Court to intimate this Court as to whether A1 was secured and whether Section 164 Statement was recorded from the minor girl.

2. A status report has been filed before this Court and the relevant paragraphs are extracted hereunder:

'15. It is respectfully submitted that as per the order of Honourable Mr.Justices, 164 of Cr.P.C. statement of the victim girl was recorded by the Judicial Magistrate, Paramakudi on 24.09.2019 in the Judicial Magistrate Court, Paramakudi.

18. It is respectfully submitted that the absconding accused A1 Dhinesh Pabu, Son of Sivaji, Kalliyadiyendal Village, has filed an Anticipatory Bail Petition in the Honourable Madurai Bench of Madras High Court vide Crl.O.P.No.13688 of 2019 and it was granted on 27.09.2019.'

3. It is clear from the above that this Court has granted Anticipatory Bail to A1 and the minor girl has also been examined by the learned Judicial Magistrate, Paramakudi under Section 164 of Cr.P.C.

4. In view of the above development, no further orders can be passed in this Habeas Corpus petition. It is left open to the



5. Accordingly, the habeas Corpus Petition is closed."

4. It is relevant to mention here that Shri.G.Vishnuram was the counsel who appeared before the Hon'ble Division Bench in the H.C.P. for one Sivaji who is the father of accused No.1. The very same counsel filed this petition for anticipatory bail before me also. I am clearly of the view that the counsel owed a duty to the Court to disclose as to what had happened before the Hon'ble Division Bench on 23.09.2019. It was made to appear before me as if on 23.09.2019 the victim was produced and nothing else had happened. On the other hand, the Hon'ble Division Bench had specifically mandated the investigation officer to make a statement as to whether Dinesh Prabhu was secured by 30.09.2019. If the said direction given by the Hon'ble Division Bench had been brought to my notice, I would certainly not have entertained the petition for anticipatory bail.

5. It is unfortunate that the investigation officer also did not properly instruct the Government counsel. Today the investigation officer, namely, Shri.A.Nagasamy, Special Sub Inspector of Police, Paramakudi Town police station, is present before me in person. He feigns ignorance of the order dated 23.09.2019 passed by the Hon'ble Division Bench. Likewise, the learned counsel Shri.G.Vishnuram also feigns ignorance about the order passed by the Hon'ble Division Bench. Therefore, I do not want to say anything more on the conduct of the counsel as well as the police. I can only express my displeasure. Since the order of the Hon'ble Division Bench was not brought to my notice, I have no hesitation to cancel the anticipatory bail granted to accused No.1 Dinesh Prabhu and it is accordingly cancelled.

6. This petition stands allowed, accordingly.

sd/-
21/11/2019

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE,
PARAMAKUDI.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>



3.THE DEPUTY SUPERINTENDENT OF POLICE,
RAMANATHAPURAM.

4.THE INSPECTOR OF POLICE,
PARAMAKUDI TOWN POLICE STATION,
RAMANATHAPURAM DISTRICT.

5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.10040 of 2019
IN
CRL OP (MD) No.13688 of 2019
Date :21/11/2019

PMU
TK/VR/SAR.1/27.02.2020/4P/6C