

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2020

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THE HON'BLE MR. JUSTICE P.RAJAMANICKAM

Crl. O.P. No. 5785 of 2020

P.M. Basil

... Petitioner/Accused No. 3

-vs-

The State rep. by  
The Inspector of Police,  
E-4, Abiramapuram Police Station,  
Chennai - 600 018. ... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 439 of Code of Criminal Procedure, 1973, to grant bail to the Petitioner in S.C. No. 348 of 2015 on the file of the I Additional Special Judge, City Civil Court, Chennai.

For Petitioner : Mr. G. Murugendran

For Respondent : Mr. T. Shunmugarajeswaran,  
Government Advocate (Crl. Side)

सत्यमेव जयते  
O R D E R

This Petition has been filed by the Accused No. 3 seeking bail for the alleged offence under Section 307 of I.P.C., altered into Sections 120-B, 341 and 302 of I.P.C.

2. The Respondent herein has registered an F.I.R. on 14.09.2013 in Crime No. 1352 of 2013 under Section 307 of I.P.C., and subsequently, on 23.09.2013, the F.I.R. was altered into under Sections 120-B, 341 and 302 of I.P.C. In the said case, the Petitioner herein was arrayed as Accused No. 3 and he

surrendered before the Court on 25.09.2013 and he was remanded to judicial custody. Subsequently, on 26.12.2013, the learned XXIII Metropolitan Magistrate, Chennai has granted bail to the Petitioner under Section 167(2) of Cr.P.C. as final report has not been filed within 90 days. Thereafter, the Respondent has filed a Petition before the Principal Sessions Judge, Chennai in Crl. M.P. No. 7189 of 2018 to cancel the bail on the ground that after the Petitioner was released on bail, the Petitioner has indulged in tampering with the witness Bensam and based on the complaint lodged by the said witness, an F.I.R. was registered in Crime No. 101 of 2017 on 24.08.2017 on the file of the Kothikode Police Station, Kanyakumari District under Section 147, 451, 294(b), 195-A and 506(ii) of I.P.C. The learned Principal Sessions Judge, Chennai by the order dated 09.07.2018 has allowed the said Petition and cancelled the bail. As against the said order, the Petitioner has filed Crl. R.C. No. 841 of 2018 before this Court. This Court by the order dated 12.09.2018 has disposed of the said Petition with a direction that the Petitioner should surrender before the Trial Court and a liberty also given to him to file appropriate Petition, if any change of circumstances arises for consideration. Thereafter, the Petitioner has filed a Bail Application in Crl. M.P. No. 4693 of 2019 before the Trial Court (I Additional Sessions Judge, City Civil Court, Chennai). The Trial Court by the order dated 14.05.2019 has dismissed the said Application stating that the Petitioner has not brought out any substantial change of circumstances. Thereafter, the Petitioner has filed another Bail Application in Crl. M.P. No. 13647 of 2019 before the Trial Court. The Trial Court has dismissed the said Application also by the order dated 29.07.2019 stating that the Petitioner has not brought out any substantial change of circumstances. Aggrieved by the same, the Petitioner has filed Crl. O.P. No. 22475 of 2019 before this Court seeking bail. This Court by the order dated 12.09.2019 has dismissed the said Petition.

3. The Petitioner has filed the present Petition seeking bail stating that the circumstances were changed after dismissal of the previous Bail petitions by the trial court.

4. The Respondent has filed Counter opposing this Petition.

5. It is seen from the records that this Court in Crl. R.C. No. 841 of 2018 by the order dated 12.09.2018 gave liberty to the Petitioner to file appropriate Petition, if any change of circumstances arises for consideration. Based on the said order, the Petitioner has filed Crl. M.P. No. 4693 of 2019 before the Trial Court seeking bail. The Trial Court has dismissed the said Application by the order dated 14.05.2019. Thereafter, again the Petitioner has filed another Bail Application in Crl.

M.P.No.13647 of 2019 and the said Application was also dismissed by the order dated 29.07.2019. Thereafter, the Petitioner has filed Crl. O.P. No. 22475 of 2019 seeking bail before this Court. This Court by the order dated 12.09.2019 dismissed the said Petition. Therefore, it has to be presumed that this court has accepted the findings of the trial court that the petitioner has not brought out any substantial change of circumstances. Under the said circumstances, this Court is of the view that if there is any further change of circumstances, the Petitioner has to approach the Trial Court stating the change of circumstances instead of that he cannot file second application before this Court citing that there are change of circumstances. The change of circumstances cited by the petitioner were already considered by this Court in Crl. O.P. No. 22475 of 2019 and dismissed the said Petition. Therefore, on the same ground, the Petitioner cannot file a second Petition before this Court.

6. For the aforesaid reasons, this Petition is liable to be dismissed. It is open to the Petitioner to file a fresh Bail Petition before the Trial Court, if there is any change of circumstances, as directed by this Court in Crl.R.C. No. 841 of 2018 dated 12.09.2018.

Sd/-  
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1. I Additional Special Judge,  
City Civil Court,  
Chennai.
2. The Inspector of Police,  
E-4, Abiramapuram Police Station,  
Chennai - 600 018.

Crl. O.P. No. 5785 of 2020

PSI (CO)  
KKV/24/03/2020