

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.11086 of 2020

Sathishkumar @ Kuppan  
S/o.Palani

... Petitioner/Accused

Vs.

The State represented by  
Inspector of Police,  
Sathuvacheri,  
Vellore District.  
(Crime No.452 of 2010)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records and set aside the Bail Cancellation order in Crl.M.P.No.137 of 2019 in S.C.No.8 of 2014 dated 12.09.2019 on the file of learned Additional Sessions Judge, Vellore and enlarged the petitioner on bail, pending trial in S.C.No.8 of 2014 on the file of learned Additional Sessions Fast Track Court, Vellore to secure the ends of justice.

For Petitioner: Mr.R.Sankarasubbu

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

O R D E R

(The cases have been heard through video conference)

This petition has been filed to call for the records to set aside the Bail Cancellation order in Crl.M.P.No.137 of 2019 in S.C.No.8 of 2014 dated 12.09.2019 on the file of the learned Additional Sessions Judge, Vellore, and enlarge the petitioner on bail.

2. The learned Counsel for the petitioner would submit that the petitioner was arrested in Crime No.452 of 2010 and subsequently, the petitioner had filed a petition in C.M.P.No.4678 of 2010 seeking for bail and that the learned Principal District Judge, Vellore, granted bail to the

petitioner by order dated 12.08.2010. Thereafter, the respondent completed the investigation and filed a final report and the case was taken up for trial in S.C.No.8 of 2014. He would further submit that while the petitioner was on bail, he was falsely implicated in the following cases;

| Sl.No. | Crime Numbers                     | Offences                                   |
|--------|-----------------------------------|--------------------------------------------|
| 1      | 452 of 2010<br>Sathuvachari P.S.  | Sec.302 IPC                                |
| 2      | 797 of 2010<br>Sathuvachari P.S.  | Sec.147,148, 341,594,<br>397, 427, 506(ii) |
| 3      | 146 of 2011<br>Vellore North P.S. | Sec.307                                    |
| 4      | 391 of 2011<br>Vellore North P.S. | Sec. 147, 148, 302, 341,<br>506(ii)        |
| 5      | 545 of 2015<br>Vellore North P.S. | Sec.307                                    |
| 6      | 57 of 2012<br>Katpadi P.S.        | Sec.302                                    |
| 7      | 48 of 2017<br>Viruthampattu P.S.  | Sec.302                                    |

Thereafter, the Vellore North Police Station filed a final report in respect of Crime No.545 of 2015 and the case was taken for trial in S.C.No.124 of 2018 on the file of the Assistance Sessions Court, Vellore. While so, the petitioner was repeatedly produced on P.T. Warrant before the trial Court in yet another case in S.C.No.132 of 2019. While so, the petitioner was found guilty for offence under Section 307 IPC and convicted in S.C.No.124 of 2018 and sentenced to undergo imprisonment for seven years, by order dated 17.10.2019 against which, the petitioner has filed a petition in C.A.No.754 of 2019 before this Court. He would submit that the petitioner has been in judicial custody even prior to the conviction order dated 17.10.2019 and after the said conviction, the petitioner was periodically produced before the concerned Court on P.T. Warrant. While so, the respondent police had filed an application seeking for cancellation of bail and the learned Additional District Judge (FTC) Vellore, without issuing notice and without hearing the petitioner and also without following the procedure, has canceled the bail granted to the petitioner in respect of Crime No.452 of 2010 on 12.08.2010 in CrI.M.P.No.4678 of 2010. He would submit that the petitioner was in continuous custody and subsequently, he has been convicted in S.C.No.124 of 2018. Therefore, even if the petitioner is granted

bail in this case, he may not be able to come out. However, he prays that the order of cancellation of bail which has been passed without issuing notice and without hearing the petitioner may be set aside.

3. The learned Government Advocate (Crl. Side) would submit that the petitioner is a habitual offender and leader of a gang and that he had been continuously engaging in criminal activities. He would submit that taking into consideration the antecedents and the criminal history of the petitioner, the respondent had filed a petition for cancellation of bail and the learned Judge, after hearing the petitioner had canceled the bail granted to the petitioner. He would submit that the petitioner has also been convicted in S.C.No.124 of 2018 and sentenced to undergo imprisonment for seven years and the sentence of conviction has not been suspended and that he has not been granted bail so far by the appellate Court.

4. Heard the learned Counsels on either side and perused the materials placed on record.

5. It is seen that the petitioner had been granted bail in Crime No.452 of 2010 by order dated 12.08.2010 vide C.M.P.No.4678 of 2010 and subsequently, the investigation was completed and the case was taken up for trial in S.C.No.8 of 2014. Subsequently, since the petitioner involved himself in several other offences, he was arrested in the subsequent cases and was in judicial custody. Further, the petitioner was also found guilty and convicted in yet another case in S.C.No.124 of 2018 by the Assistance Sessions Court, Vellore, and against the conviction and sentence, an Appeal is also pending in C.A.No.754 of 2019 before this Court. The perusal of the order shows that no notice has been served on the petitioner and he was not heard before the bail granted by the learned Principal District Judge in C.M.P.No.4678 of 2010 dated 12.08.2010 was cancelled.

6. Taking into consideration the facts and submissions made by the learned Counsels, the order passed by the learned Additional Sessions Judge, Vellore, in Crl.M.P. No.137 of 2019 in S.C.No.8 of 2014 dated 12.09.2019 is set aside.

7. Further, liberty is given to the respondent to file a fresh application if needed to cancel the bail granted to the petitioner and the learned Judge shall pass orders in accordance with law, after issuing notice and after hearing the petitioner.

8. Accordingly, this Criminal Original Petition is allowed.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Sessions Judge,  
Vellore.
2. -Do- The Principal Sessions Judge,  
Vellore.
3. The Additional District Judge (FTC),  
Vellore.
4. The Inspector of Police,  
Sathuvacheri,  
Vellore District.
5. The Public Prosecutor  
High Court of Madras  
Chennai 600 104.

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