

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.10886 of 2020

V.A.Rajendran

... Petitioner

Vs.

1. The State Rep by ... Respondents

The Inspector of Police,
Central Crime Branch-1,
Vepery, Chennai - 600 007.
(Crime No.216 of 2019)

2. Dr.A.R.Vijayakumar Ilango

PRAYER: Criminal Original Petition filed under Section 439(1) of Cr.P.C. praying to cancel the order granting anticipatory bail to the second respondent in Crl.O.P.No.20230 of 2019 dated 09.08.2019 on the file of this Court.

For Petitioner : Mr.Basu K Balaiyanantham

For Respondents:

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor.

For R2 : Mr.S.Prakash

ORDER

This petition has been filed to cancel the anticipatory bail granted by this Court to the second respondent herein in Crl.O.P.No.20230 of 2019 by an order dated 09.08.2019.

2. The learned counsel appearing for the petitioner would submit that the petitioner is being father aged about 90 years, lodged complaint as against his own son viz., the second respondent herein and the same was registered in Crime No.216 of 2019 for the offences under Sections 406 and 420 of IPC. Therefore, the second respondent herein approached this Court for anticipatory bail and this Court by an order dated 09.08.2019 was pleased to grant anticipatory bail to the second respondent on conditions that the second respondent shall deposit a sum of Rs.50,00,000/- to the

petitioner's wife account and also another sum of Rs.50,00,000/- to the petitioner's account within a period of four weeks from the date on which that order copy made ready and on such deposit the second respondent is ordered to be released on bail in the event of arrest. Aggrieved by the same the second respondent approached the Hon'ble Supreme Court of India in S.L.P.(Crl.)No.9521 of 2019 for extension of time to comply the order passed by this Court. The Hon'ble Supreme Court of India by an order dated 13.12.2019 extended the time by further period of eight weeks from 13.12.2019 to comply the order passed by this Court. Even then, the second respondent did not comply with the said order and as such the petitioner sought for cancellation of anticipatory bail granted by this Court to the second respondent.

3. The learned counsel appearing for the second respondent would submit that only on the consent of the petitioner viz., his father, the second respondent had taken him to the Registrar Office to execute the sale deed. The petitioner is a retired income tax officer and after read out the entire documents, he signed in the sale deed executed in favour of the purchaser. In fact, the petitioner borrowed a sum of Rs.1 crore as loan for his own expenses and from the total sale proceed of Rs.3.5 crore, the second respondent settled the said loan of Rs.1 crore to the person who lent the money to the petitioner herein. Therefore the second respondent never cheated the petitioner as alleged by him. Only because of the ill advice of his younger son, the present false complaint has been foisted as against the second respondent herein.

3.1. He further submitted that in fact on the complaint lodged by the younger son of the petitioner herein before the Inspector of Police, Anna Nagar Police Station, alleging that the petitioner was kidnapped by the second respondent and executed the sale deed in favour of the third party. After conducting detailed enquiry, the Inspector of Police, Anna Nagar Police Station found that the entire allegations are false and closed the same on 08.06.2019. Therefore only on the ill-advice of the younger son, the petitioner lodged the false complaint as against the second respondent, in which this Court imposed onerous conditions on the second respondent. He further submitted that in fact, the second respondent already settled a sum of Rs.1 crore to the third party and also a sum of Rs.50,00,000/- being deposited in the credit of the petitioner's account as directed by this Court, while granting interim anticipatory bail to the second respondent herein. Therefore, the second respondent never committed any offence and he is being the elder son of the petitioner, he is also entitled to have equal share from the property belonged to the petitioner. Therefore he prayed for dismissal of this petition.

4. The learned Additional Public Prosecutor appearing for the first respondent police submitted that while granting anticipatory bail to second respondent, this Court imposed condition that he shall deposit a sum of Rs.50,00,000/- to the petitioner's wife account and another sum of Rs.50,00,000/- to the petitioner's account within a period of four weeks from the date the order copy

made ready. Without complying the same, the second respondent approached the Hon'ble Supreme Court of India for extension of time and the Hon'ble Supreme Court of India also granted further period of eight weeks to comply the conditions imposed by this Court. Even then the second respondent did not comply with the conditions and therefore, the anticipatory bail granted to the second respondent is liable to be cancelled.

5. Heard, Mr.Basu K Balaiyanatham, learned counsel appearing for the petitioner and Mr.S.Prakash, learned counsel appearing for the second respondent and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the first respondent police.

6. The petitioner is the father of the second respondent herein. He lodged complaint before the first respondent and the same was registered in Crime No.216 of 2019 for the offences under Sections 406 and 420 of IPC, with the allegations that he is living with his younger son and his family along with his wife. His elder son viz., the second respondent here is running clinic in the name and style of 'Raj Nursing Home'. The petitioner is owned house at Anna Nagar and form house at Muttukadu. Due to his old age, he is suffering ailment and also undergone for heart treatment. On the instigation of the second respondent, the petitioner decided to sell the form house. While being so, the second respondent brought the bank officials and got signature from the petitioner for opening account. Thereafter, the petitioner came to understanding that the signature, which were obtained by the second respondent to sell the entire property belonged to the petitioner herein. Though the petitioner intended to sell half of the property, the second respondent sold out the entire property and the entire sale proceeds have been taken by him. The total extension of land around nine grounds and sold out for the sale consideration of more than Rs.6 crores. Further alleged that the second respondent colluded with one Immanuel Moses and entire sale proceeds were taken by him. The entire amount also have been transferred from the petitioner's account to the second respondent's account by obtaining signature in the blank cheques. Hence the complaint.

7. The second respondent filed petition for anticipatory bail and this Court considered the above facts and circumstances and granted interim protection to the second respondent by imposing condition that the second respondent was directed to deposit a sum of Rs.50,00,000/- to the petitioner's accused. The second respondent complied the said condition and while passing the final order in the anticipatory bail petition, this Court further imposed conditions as follows :-

"9. Accordingly, the petitioner shall deposit a sum of Rs.50,00,000/- (Rupees fifty lakhs only) to the defacto complainant's wife's account and also deposit another sum of Rs.50,00,000/- (Rupees fifty lakhs only) to the defacto complainant's account, within a period of four weeks from the date on which the order copy made ready, and on such

deposit, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Special Court for CCB and CBCID cases, Egmore, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC."

8. However, the second respondent filed S.L.P.(Crl.)No.9521 of 2019, before the Hon'ble Supreme Court of India for extension of time to comply the conditions imposed by this Court. The Hon'ble Supreme Court of India was pleased to extend the time by eight weeks from its order viz., 13.12.2019. The second respondent partly complied the conditions that he deposited a sum of Rs.50,00,000/- in

favour of the petitioner's wife account and failed to comply the conditions in respect of the deposit of Rs.50,00,000/- in favour of the petitioner's account. Therefore, the petitioner filed this petition for cancellation of anticipatory bail granted to the second respondent.

9. While pending this petition, the learned Senior Counsel appearing for the second respondent seeks further time to comply the conditions imposed by this Court for the reason that the second respondent could not be able to mobilize during the pandemic Covid-19 situation. Therefore, this Court extended further time till 31.07.2020. Even then, the second respondent did not comply the condition and on 31.07.2020, the learned Senior Counsel made a submission that the second respondent is ready and willing to deposit the said sum of Rs.50,00,000/- in any one of the nationalised bank in the name of the petitioner as fixed deposit. Therefore, this Court by an order dated 31.07.2020, directed the second respondent to deposit a sum of Rs.50,00,000/- as fixed deposit in the name of the petitioner herein, within a period one week from 31.07.2020. Even till today, the second respondent did not comply the condition as undertaken by him before this Court through the learned Senior Counsel. Therefore, the second respondent did not comply the condition imposed by this Court even after the Hon'ble Supreme Court of India extended time and further this Court extended time till 07.08.2020. Therefore, the second respondent deliberately violated the conditions imposed by this Court.

10. That apart the second respondent did not challenge the order passed by this Court on the ground that the condition imposed by this Court is onerous one. When the second respondent accepted the order passed by this Court and agreed to comply the conditions even before this Court as well as the Hon'ble Supreme Court of India, now he wantonly failed to comply the said condition imposed by this Court. Therefore, the anticipatory bail granted in favour of the second respondent is liable to be cancelled.

11. Accordingly, this Criminal Original Petition stands allowed and the anticipatory bail granted to the second respondent in CrI.O.P.No.20230 of 2019 by an order dated 09.08.2019, is hereby cancelled and the first respondent is directed to secure the second respondent and proceed in accordance with law. Consequently, connected miscellaneous petition is closed.

-sd/-

28/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH-I,
VEPERY, CHENNAI-600 007.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SPECIAL COURT FOR
CCB AND CBCID CASES,
EGMORE.

CC to M/S. MADHURI DONTI REDDY Advocate on payment of
necessary charges

CRL OP.10886/2020

Date :28/08/2020

TA-09/09/2020



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