

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Eleventh day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice C.V. KARTHIKEYAN

CRIMINAL ORIGINAL PETITION No.32315 & 32312 of 2019

SURALIMURUGAN

[PETITIONER IN BOTH THE PETITIONS]

Vs

1 STATE REP. BY
THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH-I,
VEPERY, CHENNAI.

[1st RESPONDENT/COMPLAINANT
IN BOTH THE PETITIONS]

2 I.MURUGAN

[2ND RESPONDENT/PETITIONERS/ACCUSED-5
CRL.O.P.NO.32315/2019]

2 T.BOOPATHY
3 B.MALA
W/O.T.BOOPATHY.

[2ND RESPONDENT/PETITIONERS/ACCUSED-2,3 & 6
CRL.O.P.NO.32312/2019]

(THIS CRL.O.P. IS DIMISSED INsofar as 3RD RESPONDENT IS CONCERNED AS
PER ORDER DATED 28.11.2019 IN CRL.O.P.NO.32312/2019)

4 ELANGO VAN

Petition praying that in the circumstances stated therein the
High Court will be pleased to

(i) To cancel the Anticipatory Bail granted in Crl.OP.Nos.7797&
7801 of 2019 order dated 25.09.2019 on the file of this hon'ble court
and the remand of the accused for judicial custody.
(Crl.O.P.Nos.32315 & 32312 of 2019)

Order : This petition coming on for orders upon perusing the
petition and upon hearing the arguments of M/S. K.P.ANANTHA KRISHNA,
Advocate for the petitioners, [IN BOTH THE PETITIONS] and of M/S.
T.P. SAVITHA, Govt. Advocate (Crl. Side) on behalf of the
Respondents, [IN BOTH THE PETITIONS] the court made the following
order:-

Both the applications have been filed by the de-facto complainant seeking cancellation of anticipatory bail granted in Crl.O.P.Nos. 7562 & 7801 of 2019 by order dated 25.09.2019.

2. By order in Crl.O.P.No. 7801 of 2019, two accused, namely, T.Boopathy and Elangovan were granted anticipatory bail. By order in Crl.O.P.No. 7562 of 2019, one accused I.Murugan was granted anticipatory bail.

3. As seen, the anticipatory bail orders were granted on 25.09.2019. Subsequently, the accused persons had surrendered before the learned Chief Metropolitan Magistrate Court, Egmore, Chennai and had furnished sureties on 19.10.2019. The intimation memo was sent only on 04.12.2019. Thereafter, they have complied with the conditions as directed from 06.12.2019.

4. It is the grievance of the learned counsel for the petitioner Mr.K.P.Anantha Krishnan that even though the order of anticipatory bail was granted on 25.09.2019, the petitioners commenced complying with the conditions imposed only from 06.12.2019 and that they have not complied with the conditions immediately thereafter. It is stated that the order of the bail was passed in the presence of the learned counsel for the accused and there was an obligation to immediately surrender and comply with the conditions. It is also stated that even if they had surrendered on 19.11.2019 as stated by them, they had commenced complying with the conditions imposed only from 06.12.2019.

5. The learned counsel also stated that under these circumstances, the anticipatory bail already granted should be cancelled in view of the violation of the condition imposed by the Court. The learned counsel pointed out that sanctity of the order of the Court must be upheld and therefore, non compliance of the conditions would entitle to cancellation of anticipatory bail.

6. In this connection, this Court had sought for a report from the learned Chief Metropolitan Magistrate, Egmore, Chennai. Accordingly, a report has been received on 23.01.2020 in Dis.No. 505/2020A. In the said report, it is stated that the order granting anticipatory bail had been received by the accused on 16.10.2019 and that they had surrendered on 19.10.2019. The records were directly sent to the CCB Court, Chennai for exclusive trial of CBCID, Chennai, in which the FIR is pending. It was stated that the intimation however was sent only on 04.12.2019 with the wrong date of surrender, namely, 19.11.2019 instead of 19.10.2019 by the Interpreter and counter signed by the Record Clerk. It is stated that owing to that negligence and dereliction of duty, Official memorandum has already been issued on the said Staff.

7. It is therefore seen that when the order copy was received on 16.10.2019, the accused had surrendered on 19.10.2019. Thereafter, the intimation report was sent only on 04.12.2019 ie., the date given in the records. The Court had granted anticipatory bail on 25.09.2019 and after filing of copy application, the order was made ready on 04.10.2019 and the order copy was received on 16.10.2019. The petitioner had approached the trial Court and had surrendered as aforesaid before the Chief Metropolitan Magistrate Court.

8. In the Petitions filed seeking cancellation of anticipatory bail filed the applications the following common statements have been made:-

"10. I submit that much time had lapsed and they kept prolonging the issue from repaying and took over 15 hearings under some pretext or the other. This Hon'ble Court on 25.09.2019 granted advance bail for all the accused except 1st accused with the condition that "the petitioners/A2 to A7 shall report before the respondent police daily at 10.30 a.m., and 5.30 p.m., until further orders.

11. I most respectfully submit that the accused through their counsel filed copy application in Sr.No. 20056 and the copy of the order of High Court was made ready on 04.10.2019. This order was received on 16.10.2019 as per High Court records.

12. I then approached the first respondent in person to find out if the accused were complying with the condition. I understood that till date the accused has not appeared before the first respondent. Thus, the accused has not complied with the conditions and have evaded the order of Court. They have also not filed any petition seeking any relief to extend the period for compliance of the order or modify the order till date. They do not have respect for the order passed by this Court. Hence, the advance bail granted to the accused should be cancelled. The accused does not deserve any lenience or indulgence of this Court."

9. However, as seen from the report of the learned Chief Metropolitan Magistrate, there had been an error on the part of the staff in forwarding and giving the intimation report and it is for that reason, there has been a delay.

10. Reliance can be placed on Daulat Ram & Anr. Vs. State of Haryana reported in (1995) 1 SCC 349, wherein it has been held by the Hon'ble Supreme Court as follows:-

"Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. "

11. Even if it is to be stated that the accused had taken advantage by surrendering only on 19.10.2019, the fact that intimation report was sent by the Chief Metropolitan Magistrate Court only on 04.12.2019 is a fact to be considered.

12. In view of all these facts, I am not inclined to interfere with the order granting anticipatory bail. Accordingly, these Criminal Original Petitions are dismissed. No costs.

-sd/-

11/02/2020

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

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

2 THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH-I,
VEPERY, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. K.P.ANANTHA KRISHNA Advocate on payment of necessary
charges

CRL OP.32315 & 32312/2019

Date :11/02/2020

TA-12/02/2020



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