

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Fourth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice C.V. KARTHIKEYAN

CRIMINAL ORIGINAL PETITION No.34423 of 2019

GOVINDASAMY

[PETITIONER/DE-FACTO COMPLAINANT]

Vs

1 NAGARAJAN

[RESPONDENT]

2 THANGARAJ @ ARUNKUMAR

3 NARASIMAN

4 STATE REP BY ITS
THE INSPECTOR OF POLICE,
KONDAMPALAYAM POLICE STATION,
VELLORE DISTRICT.
(CRIME NO.394/2019)

Petition praying that in the circumstances stated therein the High Court will be pleased to cancelling the order of the anticipatory bail dated 25.11.2019 in CRL OP No.31462/2019 in crime no. 394/2019 on the file of the 4th respondent which was passed by enlarging the respondent 1-3 herein by suppression of fact, with exemplary cost and pass such further or other orders.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.G.THANGAVEL Advocate for the petitioner and of M/S. P.R.THIRUNEELAGANDAN Advocate for R-1 to R-3 and of M/S T.P.SAVITHA, Govt. Advocate O/O PUBLIC PROSECUTOR on behalf of the 4th Respondent the court made the following order:-

This petition has been filed seeking to cancel the Anticipatory Bail granted in Crl.O.P.No.31462 of 2019 in Crime No.394 of 2019 on the file of the Inspector of Police, Kondampalayam Police Station, Vellore District by order dated 25.11.2019, to the first respondent-Nagarajan, second respondent-Thangaraj @ Arunkumar, and the third respondent-Narasiman.

2. The defacto-complainant is the petitioner in Crl.O.P.No.34423 of 2019.

3. In the affidavit filed by the defacto-complainant, it has been stated that the said Crl.O.P.31462 of 2019 had been filed before this Court on 19.11.2019. It had been very specifically stated in the petition seeking Anticipatory Bail that this is the first application and no other bail application is pending before any other Court and this Court had granted Anticipatory Bail. However, an Anticipatory Bail Application which had been filed on 07.11.2019 in Crl.M.P.No.5503 of 2019 was pending before the learned Sessions Judge, Vellore. The learned Principal Sessions Judge, Vellore had dismissed Crl.M.P.No.5503 of 2019 on 02.12.2019. Claiming that there has been suppression of material fact namely that an earlier application had already been filed and pending before the Principal Sessions Court, Vellore, the present application has been filed seeking to cancel the Anticipatory Bail already granted.

4. Notice was ordered to the respondents/accused. They have entered appearance. Counter has been filed.

5. In the counter, it had been stated that they had approached one Mr.Prabhu, who is practising as an Advocate, Sholingur to get an Anticipatory Bail in connection with case Crime No.394 of 2019. Since the son of the defacto-complainant, by name Arunkumar is a law graduate and practising law with Senior Advocate Subramanian at Sholingur Bar, there was strong opposition from the Advocate Bar. Thereafter it is stated that the respondents/accused have no knowledge about the filing of the Anticipatory Bail before the District and Sessions Court, Vellore.

6. It had been stated that this Court had already granted Anticipatory Bail dated 25.11.2019 to the respondents 1 to 3.

7. Heard the learned counsel for the respondents.

8. I am not inclined to agree with the contention that the respondents/accused did not have knowledge about the filing of the petition before the Sessions Court. The anticipatory bail application was already filed on 07.11.2019. The Anticipatory Bail application was filed before this Court on 19.11.2019. Therefore, on the date of filing of the application before this Court in Crl.O.P.No.31462 of 2019, the Anticipatory Bail application seeking the same relief in Crl.M.P.No.5503 of 2019 was pending before the District Sessions Court, Vellore.

9. This being an admitted fact, this Court naturally has to cancel the order already granted since there is suppression of material fact. In view of the said fact, the Anticipatory Bail application already granted in Crl.O.P.No.31462 of 2019 by order dated 25.11.2019 is cancelled. This application is allowed. However, liberty is granted to move fresh Anticipatory Bail application.

-sd/-
24/02/2020

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 JUDICIAL MAGISTRATE,
SHOLINGHUR

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE DISTRICT SESSIONS COURT,
VELLORE.

4 THE PRINCIPAL SESSIONS COURT,
VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
KONDAMPALAYAM POLICE STATION,
VELLORE DISTRICT.

+1CC to M/S. G. THANGAVEL Advocate on payment of necessary charges SR NO.3646

+2CC to M/S. P.R.THIRUNEELAGANDAN Advocate on payment of necessary charges SR NO.3683

CRL OP.34423/2019

Date :24/02/2020

MK:27/02/2020