



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P (MD) No.22606 of 2013

WEB COPY

State through
the Deputy Superintendent of Police,
Crime Branch, CID,
Tirunelveli Range,
(Crime No.47 of 2013)

... Petitioner / Respondent

Vs

Hendry Thomas

... Respondent/ Petitioner

PRAYER: Petition filed under Section 438(2) Code of Criminal Procedure, to cancel anticipatory bail granted to the respondent/petitioner/accused No.1 in Crl.M.P.No.3330 of 2013, dated 03.10.2013 and as modified in Cr.M.P.No.3641 of 2013, dated 08.10.2013 on the file of the learned Principal District and Sessions Judge, Thoothukudi in the interest of justice.

For Petitioner : Mr.A.Robinson
Government Advocate (Crl.side)
For Respondent : Mr.N.Anandakumar

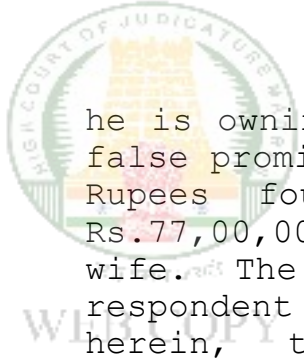
ORDER

This criminal original petition has been filed challenging the order granting anticipatory bail to the respondent herein. The respondent herein had earlier filed Crl.O.P.(MD)No.9996 of 2013 before this Court seeking the relief of anticipatory bail. The same was dismissed on 27.06.2013. This Court had passed a very detailed order and given elaborate reasons for dismissing the said petition. Thereafter, the petitioner herein filed Crl.M.P.No.3641 of 2013 before the Sessions Court and obtained anticipatory bail on 03.10.2013.

2.The learned Public Prosecutor would point out that this Court had taken a consistent position that when once a petition for anticipatory bail was dismissed by the High Court, the accused will not be entitled to move the Sessions Court thereafter. The order granting anticipatory bail to the respondent herein by the Sessions Court is illegal on the very face of it.

3.However, one aspect trouble me. The respondent had been granted anticipatory bail as early as on 03.10.2013. The question that arose is whether this Court will be justified in setting aside such an order at this point of time.

4.The learned Government Advocate (Crl.side) pointed out that the petitioner had falsely represented the defacto complainant that



he is owning about 1,500 acres of land and on the strength of such false promise, induced the defacto complainant to part with a sum of Rupees four crores and fifty lakhs. In fact, a sum of Rs.77,00,000/- was deposited in the account of the petitioner's wife. The balance amount was deposited in the bank account of the respondent herein. Based on the assurance given by the accused herein, the defacto complainant had entered into the transaction with another company also. Thus, the victim had been hit on both sides. I have to necessarily take note of the conduct of the respondent. Therefore, a mere lapse of time does not dissuade me.

5. In this view of the matter, the order impugned in this petition is set aside. This criminal original petition stands allowed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

rmi

To

1. The Principal District and Sessions Judge,
Thoothukudi District, Thoothukudi.
2. The Deputy Superintendent of Police,
Crime Branch, CID,
Tirunelveli Range, .
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P (MD) No.22606 of 2013
28.02.2020

sma/04/06/2020/2p/4c