



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)**

Date : 30/07/2020

PRESENT

The Hon' ble Mr. Justice V. BHARATHIDASAN

CRL OP(MD).No.5139 of 2020

WEB COPY

Nanthakumar

...Petitioner/Defacto Complainant

Vs

1.State Rep. by

The Sub Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.

(In Crime No.62 of 2020)

... 1st Respondent/Complainant

2.Poomalai

...2nd Respondent/Accused No.5

For Petitioner : Mr.S.Ramasamy

For R1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

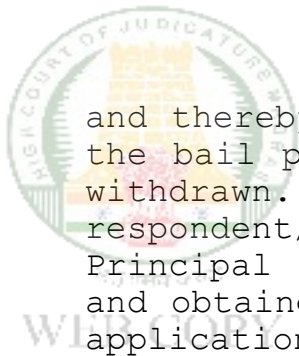
PRAYER :- This Petition is filed Under Sec.439(2) of Cr.P.C, to cancel the bail order made in Cr.M.P.No.629 of 2020 on the file of the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, dated 07.03.2020.

ORDER

The petitioner, who is the defacto complainant seeks to cancel the bail granted to the second respondent in Cr.M.P.No.629 of 2020, by the learned Principal District and Sessions Judge, virudhunagar District at Srivilliputtur on 07.03.2020.

2.The petitioner is the defacto complainant and the second respondent is the 5th accused in this case. The case has been registered for the offence under Sections 341, 307, 506(ii) of IPC @ 120(b), 341, 307, 306 and 506(ii) of IPC. Earlier, the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur, by an order dated 07.03.2020, had granted bail to the second respondent/A5. Hence, the petitioner/defacto complainant filed a present petition before this Court to cancel the bail granted to the second respondent.

3. The learned counsel appearing for the petitioner/defacto complainant would submit that earlier the second respondent/Accused No.5 filed a bail petition before this Court seeking for bail and this Court has not inclined to grant bail to the 2nd respondent/A5



and thereby, the learned counsel for the second respondent withdrew the bail petition and this Court dismissed the bail application as withdrawn. After dismissal of the bail application, the second respondent/A5 filed an application for bail before the learned Principal Sessions Judge, Virudhunagar District at Srivilliputtur, and obtained an order of bail, suppressing the fact of earlier bail application dismissed by this Court. Hence, the petitioner / defacto complainant seeks cancellation of bail granted to the 2nd respondent / A5.

4. Heard the learned counsel for the petitioner/defacto complainant and the learned Government Advocate (Crl.side) appearing for the first respondent and also perused the materials placed on records.

5. On perusal of the order of the Court below, it is seen that the earlier application filed by the petitioner was dismissed in Cr.M.P.No.462 of 2020, dated 26.02.2020 and thereafter, the petitioner has filed bail petition before this Court in Crl.O.P.(MD) No.4004 of 2020 and the same has been withdrawn on 03.03.2020. Only considering the both circumstances, the Court below granted bail. Further, the Court below taking note of the fact that the co-accused in this case had already been released on bail and also considering the fact that the injured has been discharged from the hospital, has granted bail to the 2nd respondent / A5.

6. It is needless to say that the principles concerning the grant of bail and the cancellation thereof, are well-settled. Once bail has been granted, the order cannot lightly be interfered with, unless it is found that the bail was obtained on suppression of certain material facts or that after the grant of bail, the petitioner had been misusing the privilege of bail. Here there is no suppression of fact by the 2nd respondent / A5, as alleged by the petitioner / defacto complainant. Hence, this Court is not inclined to interfere with the order of bail granted to the 2nd respondent/A5, by the Court below.

7. In the result, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



vsd

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal District and Sessions Judge,
Virudhunagar at Srivilliputhur.
2. The Sub Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD).No.5139 of 2020
30.07.2020

SPU (12.08.2020) 3P 4C