



WEB COPY

CRL.O.P.(MD). No.7279 of 2020:

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated : 14/09/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL.O.P.(MD) . Nos.7279, 7280 and 7281 of 2020

CRL.O.P. (MD) . No.7279 of 2020:

B.Premkumar : Petitioner/ Defacto Complainant

Vs.

1.State Rep.by,
The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.
(In Crime No.479 of 2020) ... 1st Respondent/ Complainant

2.Ramamoorthy ... 2nd Respondent/ Petitioner

PRAYER :- Petition is filed under Section 439(2) of the Code of Criminal Procedure praying to cancel the anticipatory bail order passed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, in Cr.M.P.No.1243 of 2020, dated 29.06.2020.

For Petitioner : Mr.T.Lajapathi Roy,
Advocate For Mr.A.Balaji, Advocate

For Respondent No.1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.side)

For Respondent No.2 : Mr.A.K.Azagarsamy, Advocate

CRL.O.P. (MD) . No.7280 of 2020:

B.Premkumar : Petitioner/ Defacto complainant

Vs.

1.State Rep. by,
The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.
(In Crime No.479 of 2020). ...1st Respondent/ Complainant

<https://hcservices.ecourts.gov.in/hcservices/>



2.Madhan Gandhi
3.Suresh @ Veervel Suresh,
4.Saravanakumar
5.Balasundar
6.Ayyanar
7.Madasamy

... Respondents/ Petitioners

PRAYER :- Petition is filed under Section 439(2) of the Code of Criminal Procedure praying to cancel the bail order passed by this learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, in Cr.M.P.No.1304 of 2020, dated 29.06.2020.

For Petitioner : Mr.T.Lajapathi Roy,
Advocate For Mr.A.Balaji, Advocate

For Respondent No.1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.side)

For Respondents 2to7: No Appearance

CRL.O.P. (MD). No.7281 of 2020:

B.Premkumar : Petitioner/ Defacto complainant

Vs.

1.State Rep. by,
The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.
(In Crime No.479 of 2020)

... 1st Respondent/ Complainant

2.K.G.N.Kanagarathinam

... 2nd Respondent/ Petitioner

PRAYER :- Petition is filed under Section 439(2) of the Code of Criminal Procedure praying to cancel the anticipatory bail order passed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, in Cr.M.P.No.1247 of 2020, dated 29.06.2020.

For Petitioner : Mr.T.Lajapathi Roy,
Advocate For Mr.A.Balaji, Advocate

For Respondent No.1 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.side)

For Respondent No.2 : No Appearance



COMMON ORDER

The petition in Crl.O.P.(MD). No.7279 of 2020 has been filed seeking to cancel the anticipatory bail granted by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, in Cr.M.P.No.1243 of 2020, dated 29.06.2020.

2. The petition in Crl.O.P.(MD). No.7280 of 2020 has been filed seeking to cancel the bail order passed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, in Cr.M.P.No.1304 of 2020, dated 29.06.2020.

3. The petition in Crl.O.P.(MD). No.7281 of 2020 has been filed seeking to cancel the order of anticipatory bail granted by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, in Cr.M.P.No.1247 of 2020, dated 29.06.2020.

4. Originally, there are seven accused and the crime has been registered for the offences punishable under Sections 341, 324 and 506(ii) of the Indian Penal Code @ 147, 148, 120-B, 341, 324 and 506 (ii) of the Indian Penal Code. The allegation is that the *defacto* complainant is the social and political activist and also running a private TV at Virudhunagar. It is alleged that the *defacto* complainant broadcasting some defamatory news in respect of one Murali who is the employer of A-3, due to which, Accused Nos.1 to 6 hatched a conspiracy. Pursuant to the same, A-1, A-4 and A-6 attacked the *defacto* complainant with dangerous weapons and caused serious injuries. The other three accused picked them in motorcycles. The *defacto* complainant was admitted in the hospital and taking treatment. In the meantime, A-1 to A-6 were arrested and remanded to judicial custody and also moved a bail application before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, wherein it is stated that the injured has already been discharged from the hospital and the accused have no previous case. Recording the same, the learned Sessions Judge granted bail to them. Likewise, two of the accused have filed anticipatory bail petitions before the Court below and the same were also allowed on the ground as aforesaid. Now, the present petitions have been filed to cancel the bail and anticipatory bail, on the ground that on the date of the order passed by the Court below, the injured was in the hospital and taking treatment. That apart, some of the accused were having so many previous cases including an offence under Section 302 of the Indian Penal Code. Those facts were suppressed by the prosecution and a misrepresentation was made before the Court below, based on which, the Court below also granted bail and anticipatory bail. Since the orders have been obtained by misrepresentation, the petitioner wants to cancel the same.



5. I have considered the submissions made on either side and also perused the materials available on record.

6. From the perusal of records, it could be seen that, in fact, on the date of the order passed by the Court below in the applications for bail and anticipatory bail, the injured was taking treatment in the hospital. That apart, some of the accused were having previous cases. Today, the Investigating Officer is present in Court and he would submit that proper written instructions were given to the learned Public Prosecutor that the injured was taking treatment in the hospital and also some of the accused were having previous cases. However, due to oversight, it is not mentioned in the order.

7. Mr.T.Lajapathi Roy, learned counsel for the petitioner submitted that the Investigating Officer is not properly investigating the case. Hence, this Court, earlier by order dated 26.06.2020, in Crl.O.P.(MD)No.6753 of 2020, directed the Assistant Superintendent of Police, Virudhunagar, to monitor the investigation, despite the same, the name of Ramamoorthy, who was arrayed as A-7 in this crime, has been deleted in the final report and the name of one Kanagaraj has been included.

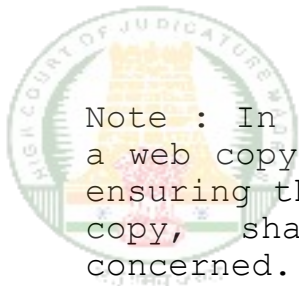
8. The learned Government Advocate (Criminal side) submitted that as per the order passed by this Court, the Assistant Superintendent of Police is monitoring the investigation and after investigation, there is no material against Ramamoorthy (A-7) and with the concurrence of Assistant Superintendent of Police, his name was deleted and final report has also been filed.

9. Considering the fact that the orders impugned herein were passed on 29.06.2020 and now more than two and half months is over; now, the injured was also discharged from the hospital; investigation was over and final report is also filed and the accused are co-operating with the investigation, at this stage, this Court is not inclined to cancel the bail and anticipatory bail granted by the Court below. Hence, these petitions stand dismissed.

sd/-
14/09/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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.

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- TO
- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
 - 2 THE INSPECTOR OF POLICE,
VIRUDHUNAGAR EAST POLICE STATION,
VIRUDHUNAGAR DISTRICT.
 - 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL.O.P. (MD) . Nos.7279, 7280
and 7281 of 2020
Date :14/09/2020

MS/PN/SAR-4/17.09.2020/5P.4C