

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.2727 of 2021
and
Crl.MP.No.1513 of 2021

Kalai @ Kalaiyarasan

... Petitioner

Vs.

1.Leena Catharin

2.State rep.by

O/o.The Inspector of Police,
Town Police Station,
Karaikal, Puducherry.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the cancellation order in Crl.MP.No.333 of 2020 dated 04.01.2021 passed by the learned Sessions Judge at Karaikal.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.D.Bhrathachakravarthi
Public Prosecutor (Puducherry)
for R 1
Ms.R.Sangavi
for R 2

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below cancelling the bail granted in favour of the petitioner.

2.Based on the complaint given by the 1st respondent, an FIR came to be registered against the petitioner in Crime No.32 of 2020 for an offence under Section 417 and 376 of IPC. The petitioner was arrested and remanded to judicial custody. The petitioner filed an application seeking for bail in Crl.MP.No.44 of 2020. Considering the facts of the case, the petitioner was enlarged on bail by an order dt.10.02.2020.

3.The petitioner was enlarged on bail by imposing certain conditions. One of the condition imposed was that the petitioner was directed to appear and sign before the learned Judicial Magistrate No.II, Karaikal, twice daily at 10.30 a.m., and 5.00 pm., until further orders.

4.The attention of the Court below was drawn to the effect that the petitioner complied with the condition only from 13.02.2020 to 20.03.2020 and thereafter he did not comply with the condition. The Court below initiated proceedings for cancellation of bail and through the impugned order dated 04.01.2021, the bail granted in favour of the petitioner came to be cancelled. Aggrieved by the same, the present petition has been filed before this Court.

5. Heard Mr.S.M.A.Jinnah, learned counsel for the petitioner and Mr.D.Bhrathachakravarthi, learned Public Prosecutor for the 1st respondent and Ms.R.Sangavi, learned counsel appearing on behalf of the 2nd respondent.

6.It is seen from records that the Court below has not actually served any notice on the petitioner. A notice came to be served only on the counsel who represented the petitioner in the bail petition. The petitioner claims that he was not aware about the proceedings initiated by the Court below for cancellation of bail. The petitioner has assigned certain reasons for not being able to comply with the condition and the main reason that has been assigned is that there was a total lock down and the petitioner was not able to move out. It is also seen from the order that the respondents have taken a plea to the effect that the petitioner absconded and went abroad. The learned counsel for the petitioner submitted that there was noway the petitioner could have gone abroad since all the International flights stood cancelled during the relevant point of time due to the pandemic.

7.In the considered view of this Court, the Court below should have issued a notice to the petitioner and sought for his explanation for non compliance of the condition and thereafter should have passed an order for cancellation of bail. The petitioner not having been given an opportunity, is now in the verge of losing his liberty and he may be rearrested by virtue of the cancellation of bail.

8.The order passed by the Court below dated 04.01.2021, is hereby set aside. The petitioner is directed to be present before the Court below on 22.02.2021 at 10.30 a.m. The petitioner shall file an affidavit before the Court below

explaining as to why he was not able to comply with the conditions imposed by the Court below while granting bail to the petitioner. The Court below shall afford an opportunity to all the parties concerned and shall thereafter pass orders on merits and in accordance with law. The matter thus stands remanded back to the file of the Sessions Court, Karaikal.

9.This criminal original original petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

KP

To

- 1.The Inspector of Police,
Town Police Station,
Karaikal,
Puducherry.
- 2.The Sessions Judge,
Sessions Court, Karaikal.
- 3.The Public Prosecutor,
High Court of Madras, Chennai.

+1cc to M/s.S.M.A.Jinnah, Advocate Sr.8655

सत्यमेव जयते

Cr1.O.P.No.2727 of 2021

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