

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.4507 of 2018

Chirag Makwana
S/o.Dinesh Makwana ... Petitioner

Vs.

1.State Represented by
The Inspector of Police,
Central Crime Branch,
EDF Wing-I, Team-II, Vepery, Chennai.
(Crime No.394 of 2015)

2.Asik Rasool
S/o.Syed Abdul Cader ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the order dated 09.05.2017 passed in Crl.M.P.No.958 of 2016 by the learned Special Judge for CCB Cases, Egmore at Allikulam, Chennai of cancelling the Bail granted in Crl.M.P.No.6806 of 2016 dated 28.06.2016 by the learned Chief Metropolitan Magistrate, Egmore at Allikulam, Chennai in Crime No.394 of 2015 pending on the file of the 1st respondent and set aside the same.

For Petitioner	: Mr.K.Sathish
For R1	: Mr.C.E.Pratap Government Advocate (Crl.Side.)
For R2	: Mr.M.K.Subramanian

ORDER

(The Case has been heard through Video Conference)

This Criminal Original Petition has been filed for a direction to call for the records pertaining to the order dated 09.05.2017 passed in Crl.M.P.No.958 of 2016 by the learned Special Judge for CCB Cases, Egmore at Allikulam, Chennai of cancelling the Bail granted in Crl.M.P.No.6806 of 2016 dated 28.06.2016 by the learned Chief Metropolitan Magistrate, Egmore at Allikulam, Chennai in Crime No.394 of 2015 pending on the file of the 1st respondent and set aside the same.

2.A case in Crime No.394 of 2015 was registered by the 1st respondent against which the petitioner filed the Bail application before the Trial Court and the Trial Court granted bail in Crl.M.P.No.6806 of 2016 dated 28.06.2016 and imposed a condition that the petitioner shall appear before the law enforcing agency daily at 10.30 a.m., until further orders. Thereafter, a case was registered against the petitioner in Crime No.67 of 2016 for the offences under Section 406, 420 & 506(I) IPC r/w 120 (B) of IPC by filing a false complaint. Since the petitioner did not comply with the condition imposed by the Trial Court, the defacto complainant filed a petition for cancellation of bail

before the Trial Court in Crl.M.P.No.958 of 2017. After ascertaining the factual materials from the law enforcing agency, the Trial Court cancelled the bail on 09.05.2017. Aggrieved by the said order, the present Criminal Original Petition is filed before this Court.

3. Mr.K.Sathish, learned counsel appearing for the petitioner submits that the non appearance of the petitioner was neither wilful nor wanton but due to the acts of his erstwhile advocate which details have been given in the affidavit. Further, on instructions, the learned counsel for the petitioner submits that the petitioner would promptly comply with the condition by appearing before the law enforcing agency till the completion of the investigation.

4. Mr.M.K.Subramanian, learned counsel appearing for the 2nd respondent submits that the act of the petitioner leading to the complaint is serious in nature. However, the bail was cancelled only on the ground that the petitioner did not appear before the law enforcing agency.

5. Considering the facts and circumstances, initially the bail was granted by the Trial Court on 28.06.2016. Subsequently, the bail was

cancelled on that ground that the petitioner did not appear before the law enforcing agency. Reasons have been shown in the affidavit by the petitioner for not able to comply with the condition and further it is submitted that the petitioner will co-operate with the enquiry.

6. With these above observations, this Criminal Original petition is ordered and the order dated 09.05.2017 passed in Crl.M.P.No.958 of 2016 by the learned Special Judge for CCB Cases, Egmore at Allikulam, Chennai is set aside and the petitioner is directed to be enlarged on bail on the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the **Superintendent of the Central Prison-II, Puzhal, Chennai**, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) Within a period of four weeks after the release, the petitioner shall execute a bond for Rs.10,000/-(Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Chief Metropolitan Magistrate, Allikulam, Chennai.

(c) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on

the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(d)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(e)the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

(f)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g)the petitioner shall not abscond either during investigation or trial;

(h)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;

(i)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

05.07.2021

($\frac{1}{2}$)

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

gbi

M.DHANDAPANI, J.

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To

- 1.The Chief Metropolitan Magistrate, Allikulam, Chennai.
- 2.The Superintendent of the Central Prison-II, Puzhal, Chennai.
- 3.The Inspector of Police,
Central Crime Branch,
EDF Wing-I, Team-II, Vepery, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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