

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fifteenth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL MISCELLANEOUS PETITION No.4624 of 2021

IN CRL OP.13885/2020

ALAMELU

[PETITIONER]

Vs

STATE REP BY,
THE INSPECTOR OF POLICE,
KULLANCHAVADI POLICE STATION,
CUDDALORE DISTRICT.
(CRIME NO.209 OF 2020).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to extend the time for executing the sureties as directed by this Honble court in Crl.OP.No.13885 of 2020 dated 10.09.2020.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.G.BALAMANIKANDAN, Advocate for the petitioner, and of M/S.KRITIKA KAMAL P. Govt. Advocate (Crl. Side) on behalf of the Respondent, the court made the following order:-

This miscellaneous petition has been filed seeking extension of time for executing the sureties as directed by this Court vide order dated 10.9.20 in Crl. O.P. No.13885/20.

2. Before proceeding to consider the prayer as sought for in the present miscellaneous petition, it is but necessary to broadly state the chequered history, which this case has since the inception of the original petition before this Court.

3. On 10.9.2020, the matter was taken up and this Court, after hearing Mr.Balamanikandan, learned counsel for the petitioner and Mr.Mohd. Riyaz, Addl. Public Prosecutor for the respondent, granted anticipatory bail to the petitioner on usual terms with an additional condition that the petitioner should report before the Rajamangalam Police Station every day at 10.30 a.m., until further orders and that the petitioner shall not enter into the jurisdiction of the respondent police.

4. In furtherance of the said order, on 16.10.2020, Crl. M.P. No.5980 of 2020 was taken up for hearing, which was filed by the petitioner for modification with regard to appearance before the Rajamangalam Police Station. On the said date, it was submitted by the learned Addl. Public Prosecutor that the petitioner was complying with the conditions and, therefore, this Court, modified the condition and directed the petitioner to appear before the respondent police every day at 10.30 a.m., until further orders. It is pertinent to point out that on the said date, Mr.R.Nalliyappan had appeared on behalf of the petitioner and Mr.Mohd. Riyaz, learned Addl. Public Prosecutor appeared on behalf of the respondent.

5. From the above orders, it is evident that as on 10.9.2020, the criminal original petition had attained finality by ordering anticipatory bail sought for by the petitioner and, thereafter, modification of certain condition was also acceded to by this Court vide order dated 16.10.2020.

6. However, curiously, on 23.2.2021, the above criminal original petition was once again listed before the Court and on that day, Mr.Balamanikandan, learned counsel, who had appeared on behalf of the petitioner at the time of ordering of anticipatory bail, had appeared and had sought the permission of the Court for withdrawing the criminal original petition and acceding to the said request, the Court, vide order dated 23.2.2021 permitted the petitioner to withdraw the petition and, accordingly, dismissed the petition.

7. First of all, this Court is at a loss to understand as to how the counsel, who had appeared on the first occasion on 10.9.2020 and had obtained bail, had once again appeared on 23.2.2021 and sought permission for withdrawing the petition, when already as on 10.9.2020, the criminal original petition had attained finality by ordering anticipatory bail and further modification was also ordered vide order dated 16.10.2020.

8. The more curious aspect unfolds at the later point of time before this Court by the filing of the present criminal miscellaneous petition in and by which prayer has been made to extend the time for executing the sureties as has been ordered by this Court vide order dated 10.9.2020. Curiously, the present miscellaneous petition has been filed by the very same learned counsel, Mr.Balamanikandan, who had initially obtained anticipatory bail and, thereafter, withdrew the same criminal original petition. This Court is at a loss to understand as to how the very same counsel, after obtaining anticipatory bail, had sought permission for withdrawal, which was also ordered and, thereafter, had filed the present petition seeking extension of time for executing the sureties.

9. It is to be pointed out at this juncture that in Crl. M.P. No.5980 of 2020, modification has been sought for, which was granted by this Court. The modification pertained to the appearance of the petitioner after coming out on bail. In the said modification order, it has been conceded by the learned Addl. Public Prosecutor that the

petitioner had been complying with the conditions imposed by this Court while granting anticipatory bail. It is to be pointed out that the modification of condition sought for would only have been after the surrender of the petitioner before the concerned Magistrate and filing the bond along with the requisite sureties and also after complying with the conditions initially imposed by this Court for a particular period of time. If not for the execution of the sureties, the conditions imposed by this Court while granting anticipatory bail could not have stood complied with and, therefore, the question of modification of condition would not have arisen. If that be the case, this Court is unable to comprehend the necessity for filing the present petition for extending the time for execution of sureties.

10. However, the facts and the sequence of events as narrated above, have not been placed before this Court either by Mr. Balamaniandan, learned counsel appearing for the petitioner or by Ms. Kritika Kamal, learned Govt. Advocate (Crl. Side) appearing for the respondent. Further, if this Court is to consider the present request of the petitioner for extending the time for execution of sureties, this Court is not able to understand as to how Mr. Mohd. Riyaz, learned Addl. Public Prosecutor could have conceded before this Court that the petitioner has been complying with the conditions, unless she had executed the bond along with the requisite sureties.

11. To put it in a nutshell, the facts as narrated above, clearly reveals that all is not well since the inception of the case upto the present position, where the present petition has been filed for extension of time for executing the sureties. Though a roving enquiry could very well be initiated to find out the truth or otherwise in the present case, however, at this distant point of time, this Court is of the view that to put a quietus to the issue, the present miscellaneous petition ought to be dismissed.

12. For the reasons aforesaid, this Court is not inclined to accede to the prayer for extension of time for execution of sureties as sought for by the petitioner and, accordingly, this criminal miscellaneous petition is dismissed.

-sd/-

15/04/2021

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This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
ADDITIONAL MAHILA COURT, CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE DISTRICT. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KULLANCHAVADI POLICE STATION,
CUDDALORE DISTRICT.

5 THE OFFICER INCHARGE
RAJAMANGALAM POLICE STATION,
CHENNAI.

+1 C.C. to M/S.G.BALAMANIKANDAN Advocate on payment of
necessary charges SR.NO.4809

Order

in
CRL MP.4624/2021

in
CRL OP.13885/2020

Date :15/04/2021

From 7.2.2001 the Registry is issuing certified
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TA-17/05/2021

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