



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2021

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.7073 of 2021

V.Jayakumar .. Petitioner / Defacto complainant

Vs.

1.The State rep by

The Inspector of Police (Crime)

J.13, Taramani Police Station

Adyar, Chennai District

(Crime No.340 of 2020)

.. Respondent / Complainant

2.Juzar Akbar Ali

3.Murtaza

4.Abbas Akbar Ali

.. Respondents / Petitioners

PRAYER: Criminal Original Petition is filed under Section 439(2) of Criminal Procedure Code praying to cancel the anticipatory bail ordered to all the accused 1 to 3 in Crl. O.P.No.14393 of 2020 dated 16.09.2020 on the file of this Hon'ble Court.

For Petitioner : Mr.K.Alayappan

For Respondent-1 : Mr.V.J.Priyadarsana
Government Advocate (Crl. Side)

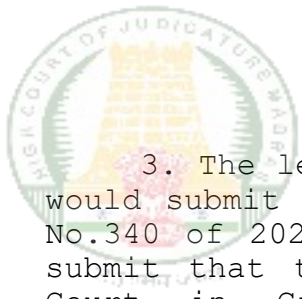
For Respondents 2 to 4 : Mr.K.Sakthivel

O R D E R

(The case has been heard through video conference)

This petition has been filed seeking for cancellation of anticipatory bail granted to the accused 1 to 3 / the respondents 2 to 4 herein, in Crl.O.P.No.14393 of 2020 by order dated 16.09.2020.

2. Private notice has been served on the respondents/accused and the affidavit of services has also been filed. Since the respondents / accused did not appear before this Court, this court had directed to print th name of Mr.K.Sakthivel, learned counsel who had earlier appeared for the respondents / accused in Crl.O.P.No.14393 of 2020.



3. The learned Counsel for the petitioner/defacto complainant would submit that the respondents 2 to 4 are accused in Crime No.340 of 2020 registered by the 1st respondent police. He would submit that the respondents/accused had earlier approached this Court in Crl.O.P.No.9632 of 2020 and they were granted anticipatory bail by this Court on 29.06.2020 and thereafter, the respondents/accused did not comply with the conditions and did not surrender before the Court to execute surety within the time stipulated by this court. Thereafter, they filed a fresh petition in Crl.O.P.No.14393 of 2020 and made a wrong representation before this Court as if, the co-accused in this case were granted anticipatory bail and this Court believing the representation made by the counsel, had granted anticipatory bail to them. He would submit that the anticipatory bail has been obtained by misrepresentation. Further, they have not complied with the conditions imposed by this Court in the subsequent anticipatory bail order. Hence, he would seek of cancellation of anticipatory bail granted to the respondents / accused.

4. Mr.K.Sakthivel, learned counsel would submit that he had earlier appeared for the respondents/accused in crl.O.P.No.14393 of 2020 and after obtaining anticipatory bail, the respondents accused have taken back the bundles from him. He would submit that he was the Counsel who appeared for the respondents/accused in Crl.O.P.No.14393 of 2020 and the representation was categorically made that the petitioners had earlier approached this Court in Crl.O.P.No.9632 of 2020 and they were granted anticipatory bail by order dated 29.06.2020. Subsequently, due to pandemic situation, they could not surrender before the Court within the stipulated time and thereby, a fresh application in Crl.O.P.No.14393 of 2020 was filed. He would submit that an error has crept in the earlier order in Crl.O.P.No.9632 of 2020 as if, the co-accused were granted anticipatory bail and the fact remains that the petition in Crl.O.P.No.9632 of 2020 was filed by earlier counsel and there was no suppression of fact. He would submit that with regard to the averment of non compliance of condition he has no instruction.

5.The learned Government Advocate (Crl. Side) would submit that the respondents/accused had earlier approached this Court in Crl.O.P.No.9632 of 2020 and they were granted anticipatory bail by order dated 29.06.2020. Later, since they did not surrender before the Court within the stipulated period, the earlier order got lapsed and thereby, they filed the 2nd application in Crl.O.P.No.14393 of 2020 and it was also mentioned in the petition. He would submit that after obtaining the anticipatory bail order in Crl.O.P.No.14393 of 2020, the respondents / accused surrendered before the Court, executed sureties and they have also appeared before the respondent police and duly complied with the conditions. Further he would submit that the respondent police have completed the investigation in Crime No.340 of 2020 and the final report has also been filed before the XVIII Metropolitan Magistrate, Saidapet, on 30.04.2021 and the same has been taken up on file in C.C.No.2145 of 2021 and summons were also ordered to the accused.



6. Taking into consideration of the above facts and circumstances of the case, this Courts is of the opinion that there has been no suppression of facts before this Court. Further, it is stated by the respondent police that the respondents / accused have complied with the conditions and the investigation has been completed and final report has been filed and the same has been taken up in C.C.No.2145 o 2021 on the file of the XVIII Metropolitan Magistrate, Saidapet.

7. Therefore, this Court is of the opinion that there is no ground for cancellation of anticipatory bail. However, a representation has been made by the counsel for the petitioner that the investigation has not been done properly and the stolen articles have not been recovered by the police. If it is so, the petitioner / defacto complainant is at liberty to take appropriate steps in accordance with the code of criminal procedure.

8. Accordingly, this Criminal Original Petition stands closed.

-sd/-
22/07/2021

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 METROPOLITAN MAGISTRATE NO.XVIII,
SAIDAPET, CHENNAI.

2 THE INSPECTOR OF POLICE (CRIME),
J13, TARAMANI POLICE STATION,
ADAYAR, CHENNAI DISTRICT.

3 THE INSPECTOR OF POLICE,
TARAMANI POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. K.ALAYAPPAN Advocate on payment of necessary charges

CRL OP.7073/2021

Date :22/07/2021