



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.7385 of 2021

R.K.Ganesan

S/o.Krishnasamy

... Petitioner/Defacto Complainant/  
Defacto Complainant

Vs.

1. The Inspector of Police,  
Central Crime Branch,  
EDF-II, Team IX-A,  
Commissioner's Office Building,  
Vepery, Chennai.  
(Crime No.37 of 2020)

...Respondent/Complainant/  
Complainant

2. K.Venkatesan  
S/o.Kuppulingam

...2<sup>nd</sup> Respondent/Petitioner/  
Accused No.1

PRAYER: Criminal Original petition has been filed under Section 439(2) of Cr.P.C prayed to cancel the bail order granted to the second respondent herein by the Principal Sessions Judge, Chennai in Crl.MP.No.561 of 2021 by order dated 29.03.2021.

|                 |                                                    |
|-----------------|----------------------------------------------------|
| For Petitioner  | : Mr.S.Ramasamy                                    |
| For Respondents | :                                                  |
| For R1          | : Mr.C.E.Pratap,<br>Government Advocate (Crl.Side) |

ORDER

This Criminal Original petition has been filed to cancel the bail granted to the second respondent herein in Crl.MP.No.561 of 2021 by the Principal Sessions Judge, Chennai vide order dated 29.03.2021.

2. The case of the prosecution is that there was a property dispute between the petitioner/defacto complainant and the second respondent herein and three others due to which, the petitioner/defacto complainant lodged a complaint against the



second respondent herein and three others.

3. The learned counsel for the petitioner/defacto complainant has submitted that the property worth about Rs.3.15 crores had been agreed to be sold to the petitioner/defacto complainant. Towards the sale consideration, the defacto complainant executed a sale deed in respect of his property situated near Tindivanam worth about Rs.2 crores in favour of the present petitioner and balance consideration amount of Rs.1 crore 15 lakhs has been paid to the second respondent as well as the other accused. Though they have received the entire sale consideration, they failed to execute the sale deed as promised. On the other hand, the second respondent mortgaged the property, which was sold by the defacto complainant and obtained a loan of Rs.1 crore from the finance company. The other accused persons viz., Suresh Babu and Kamatchi have executed a sale deed in respect of their first floor undivided share to one Bharanidharan. Thus, all of them joined together and cheated the defacto complainant more than Rs.3 Crores and hence he seeks for cancellation of the anticipatory bail granted to the 2<sup>nd</sup> respondent.

4. The learned Government Advocate (Crl.Side) has submitted that the second respondent herein was arrested and remanded to judicial custody and subsequently he was granted interim bail by the learned Principal Sessions Judge, Chennai in Crl.MP.No.6955 of 2020 on 24.03.2020 with direction that the second respondent herein should surrender before the Magistrate Court on 15.04.2020 and subsequently he moved for regular bail in Crl.MP.No.7712 of 2020 which was dismissed by the Principal Sessions Judge, Chennai holding that the second respondent had already been granted interim bail. Again, the second respondent herein filed an application for regular bail in Crl.MP.No.561 of 2020 and the same was ordered on 29.03.2021 and the second respondent was directed to surrender before the learned CCB and CBCID Metropolitan Magistrate, Chennai on or before 15.04.2021.

5. A perusal of the materials available on record reveal that when bail has been granted, it is the duty of the petitioner to satisfy this Court as to the breach of conditions. The petitioner has not pointed out any situation, as pointed out by the Hon'ble Supreme Court in the case of Dolat Ram - Vs - State of Haryana (1995(1) SCC 349 ) that once bail has been granted, there should be deliberate non-compliance of the conditions stipulated and/or fraudulent act perpetrated before the Court for cancellation of bail and in the above circumstances, there being no deliberate non-compliance with the order passed by the Court below, nor any material to show that fraud has been perpetrated nor any supervening circumstances which has arisen the prayer of the petitioner herein for



cancellation of bail does not merit acceptance.

6. It is to be pointed out at this juncture that it has been the ratio laid down in a catena of decisions that unless and until substantive materials are placed to show that the bail obtained was through fraudulent means and that the conditions imposed by the court have not been complied with, on mere ipse dixit, the Courts shall not invoke its power to cancel the bail. The conditions for cancellation of bail are more stringent than the conditions for grant of bail, as has been laid down by the courts and in the present case, on mere assertions, the petitioner seeks to have the bail granted to the petitioner cancelled without placing the requisite materials to substantiate his submissions. Such being the case, this Court is not inclined to grant the prayer as sought for by the petitioner.

7. For the reasons aforesaid, this application for cancellation of bail is liable to be dismissed and, accordingly, the same is dismissed.

Sd/-  
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

Vv

To

1. The Principal Sessions Judge,  
Chennai
2. The CCB and CBCID Metropolitan Magistrate,  
Chennai
3. The Inspector of Police,  
Central Crime Branch,  
EDF-II, Team IX-A,  
Commissioner's Office Building,  
Vepery, Chennai.
4. The Public Prosecutor,  
High Court of Madras,  
Chennai.

Cr1.O.P.No.7385 of 2021

SKY(CO)  
CB(02/08/2021)