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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NO.15961 OF 2021

Ms.Kannagi

.. Petitioner/Defacto Complainant/
Complainant

Vs.

1. The Inspector of Police,
Baluchettychatram Police Station,
Kancheepuram District.

.. 1st Respondent/1st Respondent/
1st Respondent

2. Dhanraj

.. 2nd Respondent/2nd Respondent/A1

3. Pilomina

.. 3rd Respondent/3rd Respondent/A2

Prayer: Petition filed under Section 439(2) of Cr.P.C., to cancel the Bail to 2nd and 3rd respondents granted in Crl.M.P.No.1476 of 2021 by the Learned Judicial Magistrate No-I at Kancheepuram on 26.07.2021 in connection with Crime No.842 of 2021 dated 13.07.2021 on the file of the 1st respondent.

For Petitioner : Mr.D.Dayalan

For 1st Respondent : Mr.A.Gopinath,
Government Advocate
(Crl.side)

ORDER

The petitioner has filed this petition seeking to cancel the Bail to 2nd and 3rd respondents granted in Crl.M.P.No.1476 of 2021 by the Learned Judicial Magistrate No-I at Kancheepuram on 26.07.2021 in connection with Crime No.842 of 2021 dated 13.07.2021 on the file of the 1st respondent.

2. It is the case of the petitioner that the 2nd and 3rd respondents received a sum of Rs. 2,80,000/- for the purpose of



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meeting their financial needs from the petitioner who is a daily wage employee and had not returned the money to the petitioner. When the petitioner demanded the return of money from the respondents, they abused with filthy language and assaulted her with dire consequences. Hence the petitioner lodged a case before the law enforcing agency against the 2nd and 3rd respondents. Thereafter the 2nd and 3rd respondents moved a bail application before the Trial Court and the bail was granted by the Trial Court on certain conditions in C.M.P. No.1476 of 2021 on 26.07.2021.

3. The learned counsel for the petitioner submits that the bail was granted to 2nd and 3rd respondents by the trial Court on 26.07.2021 by directing 2nd and 3rd respondents to execute the bond for a sum of Rs.10,000/- and appear before the Court on summons. Subsequent to that, the 2nd and 3rd respondents threatened the petitioner with dire consequences to withdraw the case in Crime no.842 of 2021 and tried to tamper the witnesses. Thereafter once again the petitioner lodged a complaint against the respondents which resulted in filing of C.S.R.No.525 of 2021. In order to protect the life and liberty of the petitioner, the present petition is filed before this Court seeking cancellation of bail granted to the respondents in C.M.P.No.1476 of 2021 on 26.07.2021. Accordingly he prays for the cancellation of Bail granted to the 2nd and 3rd respondents.

4. The learned Government Advocate Submits that no condition was imposed by the trial court with regard to the tampering of witness and appearing before the law enforcing agency however the Trial Court imposed a condition on the petitioner to execute a bond for a sum of Rs.10,000/- along with two sureties and further to appear before the Trial Court on summons. Now the present petition is filed before this Court on the ground that the private respondents threatened the De-facto Complainant and the complaint was also lodged against the private respondents for which C.S.R.No. 525 of 2021 was assigned. Hence the ground raised by the petitioner may not be sufficient to cancel the bail granted by the Trial court as no supervening circumstances are pointed out.

5. As pointed out by the learned Government Advocate, there is no condition imposed on the respondents 2 & 3, but for the execution of sureties. Though the petitioner claims that the respondents threatened her with dire consequences thereby tried to tamper with the evidence, however, no material whatsoever is placed to justify the said stand.

6. A perusal of the materials available on record reveals that mere assigning of C.S.R.No.525 of 2021 by the law enforcing agency cannot be termed to be a supervening circumstance warranting a presumption that an offence was



committed by the Private respondents. In the absence of any pointed supervening circumstance cancellation of bail granted sought for cannot be acceded to.

7. Further the decision of the Hon'ble Supreme Court in the case of Daulat Ram-Vs-State of Haryana (1995 (1) SCC 349) comes to the aid of this Court, wherein the Hon'ble Supreme Court has held that once supervening circumstances are brought to the notice of the Court, then the Court is clothed with power to revisit the bail granted to an accused. However, in the case on hand, except for the fact that another CSR has been filed against the respondent, who has been granted bail by the trial court, no Daulat Ram's case. Further, it is to be pointed out that the CSR has been laid subsequently and the said CSR was not in existence, which was not brought to the knowledge of the Court when bail was granted to the respondent. Such being the case, this Court is of the considered view that as per the norm, bail is the norm and jail is exception, the court below has rightly applied the said norm and had granted bail to the respondents, which cannot be found fault with. Therefore, no interference is called for with the said order passed by the court below.

8. Accordingly this petition seeking cancellation of bail granted to the private respondents by the Trial Court is dismissed.

Sd/-
Assistant Registrar(CS-VII)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate No-I,
Kancheepuram District.
2. The Inspector of Police,
Baluchettychatram Police Station,
Kancheepuram District.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.15961 of 2021

KJ(CO)
RLP(27/10/2021)