

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

CORAM:

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

Crl.O.P.No.20280 of 2020

Hari
S/o.Senthil Kumar

... Petitioner

/Vs/

1. The State Represented by
The Inspector of Police,
Arakkonam Police Station,
Vellore District
(Crime No.736 of 2020)

... 1st Respondent

2.Kamal @ Kamalakannan
S/o.Padamanathan

3.Haribabu
S/o.Padamanathan

4.Anadh @ Anandababu
S/o.Padamanathan

5.Sudhakar Ammanor
S/o.Desan

... Respondents 2 to 5

PRAYER: Criminal Original Petition filed under sections 439(2) of Cr.P.C., to cancel the anticipatory bail granted to the respondents 2 to 5 in the above Crl.O.P.No.14355 of 2020 dated 15.09.2020.

For Petitioners : Mr.S.Shankar

For R-1 : Mr.C.Iyyappa Raj
Additional Public Prosecutor

For R-2 to R-4 : Mr.S.Suresh

For R-5 : No Appearance

ORDER

This Criminal Original Petition has been filed by the defacto complainant to cancel the bail granted to the respondents 2 to 5 by this Court, vide order dated 15.09.2020 in CrI.O.P.No.14355 of 2020.

2.The case of the petitioner / defacto complainant is that on the complaint given by him, a case was registered against the respondents 2 to 5 for the offences under Section 147, 148, 342, 294(b), 324 and 506(ii) IPC. The allegation is that on 16.07.2020 due to wordy quarrel, the respondents 2 to 5 along with other accused have attacked the petitioner an his brother with wooden log, due to which, they have sustained grievous injuries all over the body including eyes. The respondents 2 to 5 approached this Court seeking anticipatory bail and this Court vide order dated 15.09.2020 in CrI.O.P.No.14355 of 2020 granted anticipatory

bail to them on condition to report before the respondent police everyday at 10.30 a.m. until further orders. The petitioner has now approached this Court seeking for cancellation of anticipatory bail granted to the respondents 2 to 5 on the ground that they have failed to comply with the condition imposed by this Court in Clause (c) of the order dated 15.09.2020 in CrI.O.P.No.14355 of 2020.

3.Learned counsel appearing for the petitioner / defacto complainant would submit that this court while granting anticipatory bail to the respondents 2 to 5 in CrI.O.P.No.14355 of 2020 dated 15.09.2020 had directed the respondents 2 to 5 to appear before the respondent police daily at 10.30 a.m. until further orders, however, the respondents 2 to 5 have failed to comply with the order. He would further submit that the respondents 2 to 5 are repeatedly involving in similar sort of offences as against the petitioner and consequently on a complaint given by the petitioner/ defacto complainant, a case has been registered in Crime No.841 of 2020 against the respondents 2 to 5. He would further submit that the respondents 2 to 5 are the persons who are the accused in Crime No.841 of 2020. Accordingly, he would seek for cancellation of

anticipatory bail granted to the respondents 2 to 5.

4.The respondents 2 to 4 have filed counter.

5.Mr.S.Suresh, learned counsel appearing for the respondents 2 to 4 submitted that in due compliance of the order dated 15.02.2021 in Crl.O.P.No.14355 of 2020 the respondents 2 to 4 have been complying with the order by appearing before the 1st respondent police everyday at 10.30 a.m.. He would further submit that the respondents 2 to 4 have also filed a petition for relaxation of the conditions imposed in Crl.M.P.No.6811 of 2020 and the same was dismissed by this Court on 09.11.2020 for the reasons that the respondents 2 to 4 have complied with the conditions only from 19.09.2020 to 28.09.2020. He would further submit that the father of the respondents 2 to 4 fell ill with symptoms of Covid-19, therefore, the entire family was quarantined at home. Thereafter, the respondents 2 to 4 had approached the respondent police to comply with the condition but the respondent police did not let the respondents 2 to 4 to comply with the condition. Therefore, the respondents 2 to 4 have filed a petition in Crl.M.P.No.7816 of 2020

seeking for a modification on 19.11.2020 to appear before the respondent police, which is now pending before this Court. He would further submit that the respondents 2 to 4 have no connection with the F.I.R. registered in Crime No.841 of 2021 and the allegations are made only against some unknown persons. He would further submit that the respondents 2 to 4 are Government servants and that in order to harass them, a false complaint has been given. He would further submit that the respondents 2 to 4 have not involved in any subsequent cases and that the respondents 2 to 4 have no connection with the 5th respondent and the CrI.M.P.No.7816 of 2020 seeking for modification is filed only in respect of respondents 2 to 4 alone.

4.Learned Additional Public Prosecutor would submit that the respondents 2 to 4 have complied with the condition imposed by this Court vide order dated 15.02.2021 in CrI.O.P.No.14355 of 2020 from 19.09.2020 to 28.09.2020. He would further submit that Crime No.841 of 2020 has been registered against some unknown persons and that the investigation is pending. However, he would reiterate that the 5th respondent has not complied with the condition.

5.Heard the counsels.

6.Taking into consideration the fact and submissions and that the respondents 2 to 4 have been complying with the conditions from 19.09.2020 to 28.09.2020 regularly and thereafter due to quarantine of the entire family, they could not comply with the condition and accordingly they have also filed a petition in CrI.M.P.No.7816 of 2020 seeking for a modification to appear before the respondent police and taking into consideration the fact that the respondents 2 to 4 are not the accused in Crime No.841 of 2020, this Court is inclined to dismiss the cancellation bail petition filed as against the respondents 2 to 4.

7.So far as the 5th respondent is concerned, the learned Additional Public Prosecutor submitted that the 5th respondent after obtaining anticipatory bail has not complied with the order of this Court imposed in CrI.O.P.No.14355 of 2020 dated 15.09.2020. Despite the private notice served on him and the name printed in the cause list, there is no appearance on the part of 5th respondent. Hence, this Court is inclined to allow this cancellation of bail petition as far as the 5th

respondent is concerned.

8.In the light of the above fact, the Criminal Original Petition stands dismissed as against the respondents 2 to 4. The Criminal Original Petition stands allowed as far as the 5th respondent is concerned. The respondent police shall take effective steps to secure the 5th respondent.

9.This Criminal Original Petition stands disposed of accordingly.

22.02.2021

(1/2)

Index: Yes
Internet: Yes

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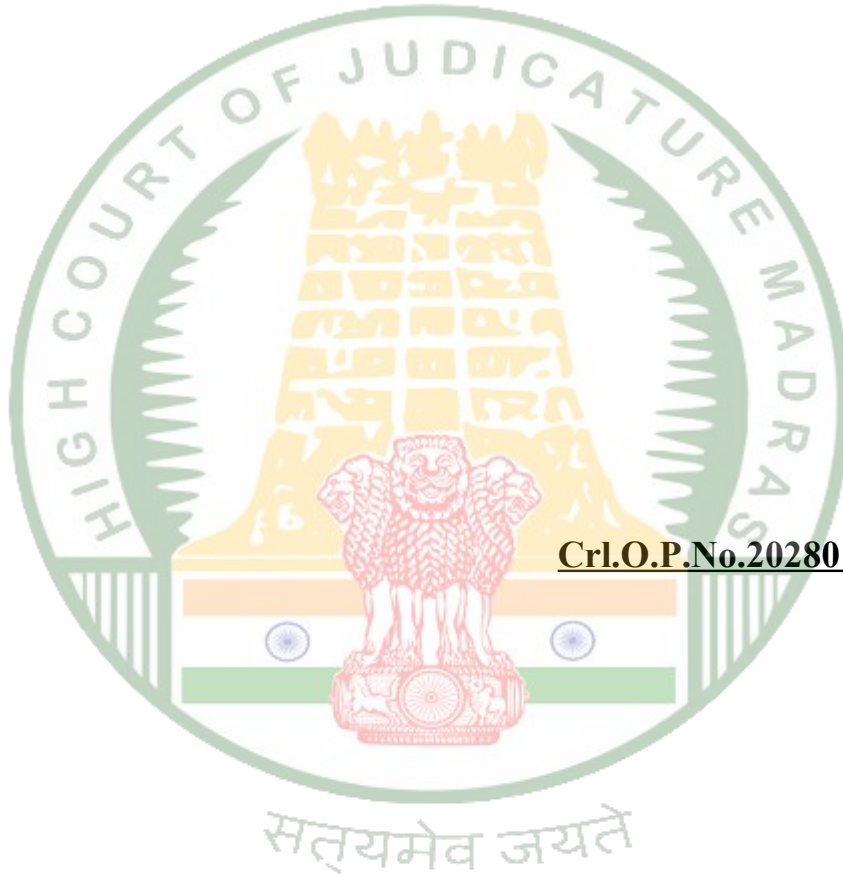
To

1.The Inspector of Police,
Arakkonam Police Station,
Vellore District

2.The Additional Public Prosecutor,
High Court of Madras
Chennai 600 104

A.D.JAGADISH CHANDIRA,J.

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