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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.No.13349 of 2021

in

Crl.O.P.No.13168 of 2021

Ashokan ...Petitioner/De-facto complainant
vs.

1. The State rep by
Inspector of Police,
CCB-I Police Station
Chennai (Crime No.90 of 2021)

2. B.Pasupathy ...Respondents

Criminal Original Petition is filed to cancel the anticipatory bail granted to the 2nd respondent in Crl.O.P.No.13168 of 2021 dated 29.07.2021 by this Hon'ble Court.

For Petitioner : Mr.C.D.Johnson

For Respondent R1 : Mr.S.Balaji
Government Advocate (Crl.Side)

For Respondent R2 : Mr.A.V.Arun

ORDER

This Criminal Original Petition is filed to cancel the anticipatory bail granted to the 2nd respondent in Crl.O.P.No.13168 of 2021 dated 29.07.2021 by this Court.

2. The case of the prosecution is that there was a business transaction between the 2nd respondent herein and the de-facto complainant in Crl.O.P.No.13168 of 2021, in which, the 2nd respondent has to supply gloves to the tune of Rs.50,00,000/- (Rupees Fifty lakhs only). However, the 2nd respondent neither supplied the materials nor refunded the money. Hence the complaint was registered against the 2nd respondent under sections 406, 420 and 34 of IPC in Crime No.90 of 2021 on the file of the 1st respondent police and the 2nd respondent



has approached this Court for anticipatory bail on 29.07.2021 and the same was granted in Crl.O.P.No.13168 of 2021 against which the present petition is filed before this Court, to cancel the anticipatory bail granted to the 2nd respondent by this Court on the ground that the 2nd respondent has to deposit the balance amount of Rs.25,00,000/- to the credit of Crime No.90 of 2021.

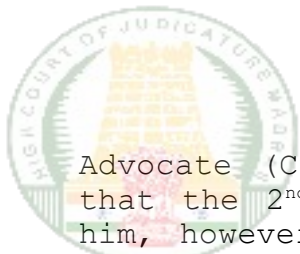
3. The learned counsel appearing for the petitioner fairly conceded that the petitioner and 2nd respondent are accused in Crime No.90 of 2021 and the petitioner is arrayed as A3 and the 2nd respondent is arrayed as A2. The 2nd respondent has obtained anticipatory bail on the ground that he has promised to supply gloves to the tune of Rs.50,00,000/- and he has neither supplied the gloves nor returned the amount, however, he has already paid Rs.25,00,000/- to the de-facto complainant Crl.O.P.No.13168 of 2021 and ready to deposit the balance amount of Rs.25,00,000/-. However, the 2nd respondent has suppressed the fact that the petitioner herein has paid a sum of Rs.2,00,00,000/- to him and he has submitted the wrong facts before this Court and obtained anticipatory bail. He further submitted that in support of his contention, he has also submitted the receipts and the documents to show that the 2nd respondent has received a sum of Rs.2,00,00,000/- from the petitioner, suppressing which the 2nd respondent obtained the anticipatory bail, which is not sustainable. Hence, he prays to cancel the anticipatory bail granted in favour of 2nd respondent.

4. The Learned Counsel for the 2nd respondent fairly admitted that the 2nd respondent is an accused in Crime No.90 of 2021 and has received only Rs.50,00,000/- from the de-facto complainant in Crl.O.P.No.13168 of 2021 has not received any amount from the petitioner herein. Hence, he vehemently opposed for cancellation of anticipatory bail to the 2nd respondent.

5. The learned Government Advocate (Crl.Side) submitted that the 2nd respondent has complied with the condition imposed by this Court vide order dated 29.07.2021.

6. The fact in the present case as projected is that the petitioner and the 2nd respondent together have collected a huge amount from the de-facto complainant in Crl.O.P.No.13168 of 2021 stating that they will supply gloves to him. However, they neither supplied the materials nor refunded the money. Hence the complaint was registered.

7. A perusal of the materials available on record reveal that the 2nd respondent has received a sum of Rs.50,00,000/- and later he has returned Rs.25,00,000/- and when the matter was taken up for hearing to obtain the anticipatory bail, the 2nd respondent has agreed to pay the balance amount and now he submitted that the balance amount was deposited and the same was confirmed by the learned Government



Advocate (Crl.Side). Though it is the contention of the petitioner that the 2nd respondent has received a sum of Rs.2,00,00,000/- from him, however, that is not an issue before this Court while granting anticipatory bail, except for the contention of the petitioner, hence, it cannot be sustained.

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8. All the above aspects have been appreciated in proper perspective by this Court while granting anticipatory bail to the 2nd respondent. In such a backdrop, the present petition seeking cancellation of bail is wholly misconceived and is a flawed attempt on the part of the petitioner and, therefore, the prayer as sought for by the petitioner cannot be acceded to. Further there are no supervening circumstances which has been pointed out by the petitioner and, therefore, the decision in the case of the *Daulat Ram -vs- State of Harayana 1995(1) SCC 349* stands squarely attracted.

9. For the reason aforesaid, the petition seeking to cancel the anticipatory bail granted to the 2nd respondent cannot be sustained and, accordingly, the same is dismissed.

-sd/-
14/12/2021

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 SPECIAL COURT FOR CCB CASES,
CHENNAI.

2 THE INSPECTOR OF POLICE,
CCB-1 POLICE STATION,
CHENNAI DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



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C.C. to M/S. C.D .JOHNSON Advocate on payment of necessary charges

Order
in
CRL MP.13349/2021
in
CRL OP.13168/2021
Date :14/12/2021

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

CSK 30/12/2021