



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 01/11/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

WEB COPY

CRL OP(MD) . No.14456 of 2021

and

CrI.O.P(MD) .No.16420 of 2021

CRL OP(MD) . No.14456 of 2021

Ganesan,

... Petitioner/Sole Accused

Vs

State Rep by,
The Inspector of Police,
Odaipatti Police Station,
Theni District.
Cr.No. 230 of 2021.

... Respondent/Complainant

CRL OP(MD) . No.16420 of 2021

The Inspector of Police,
Uthamapalayam Circle,
Theni District.
Cr.No. 230 of 2021.

... Petitioner/ Respondent

Vs

Ganesan.A,

... Respondent/ Petitioner

CRL OP(MD) . No.14456 of 2021

For Petitioner
For Respondent

: Mr.J.Vishnu, Advocate.
: Mr.T.Senthilkumar,
Government Advocate (CrI.Side)

CRL OP(MD) . No.16420 of 2021

For Petitioner
For Respondent

: Mr.T.Senthil Kumar
Additional Public Prosecutor,
: Mr.J.Vishnu, Advocate

PETITION FOR BAIL Under Sec.439 of Cr.P.C

PRAYER in CrI.O.P(MD) .No.14456 of 2021 :-

For Bail in Crime No.230 of 2021 on the file of the Respondent Police.

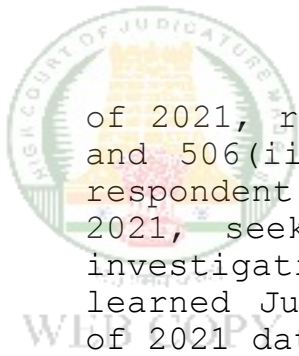
PRAYER in CrI.O.P(MD) .No.16420 of 2021:-

To Cancel the bail granted to the Respondent in Cr.MP.No.5010 of 2021 on file of Learned Judicial Magistrate, Uthamapalayam dated 01.10.2021.

ORDER : The Court made the following order :-

The petitioner in CrI.O.P(MD) .No.14456 of 2021 and the Respondent in CrI.O.P(MD) .No.16420 of 2021 are one and the same was arrested on 05.09.2021, in connection with the case in Crime No.230

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of 2021, registered for the offence under Sections 447, 294(b), 323 and 506(ii) of IPC in Crime No.230 of 2021, on the file of the respondent police and therefore filed in CrI.O.P(MD).No.14456 of 2021, seeks bail. CrI.O.P(MD).No.16420 of 2021 is filed by the investigating agency to cancel the bail granted to him by the learned Judicial Magistrate, Uthamapalayam in Cr.M.P(MD).No.5010 of 2021 dated 01.10.2021.

2.The case of the prosecution is that the accused, who is the husband of the defacto complainant has assaulted the defacto complainant and chased her away and their three children, of which two children are special children. In order to avoid from maintaining his wife and children, the accused abused and assaulted them.

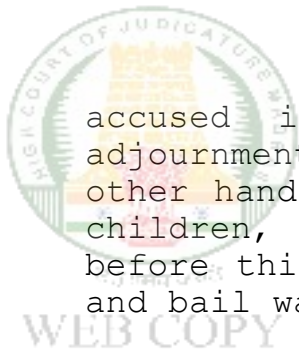
3.The learned counsel for the accused submitted that his client is an innocent person and he has been falsely implicated in this case. He further submitted that the accused is ready to pay some maintenance to his wife and children.

4.On 01.10.2021, when the matter was taken up for hearing, this Court suggested the petitioner/accused to file an undertaking affidavit since the petitioner undertook to pay maintenance to the children and his wife and adjourned the case.

5.On 25.10.2021, when the matter was taken up for hearing, the learned counsel for the petitioner/accused expressed that though he informed the petitioner to pay maintenance to his wife and children, the petitioner is not willing to pay any maintenance to them.

6.The learned Additional Public prosecutor submitted that the accused has assaulted the defacto complainant and chased her away and their three children, including two special children. He further submitted that suppressing the pendency of the bail application before this Court, the petitioner/accused has filed a bail application before the learned Judicial Magistrate, Uthamapalayam in Cr.M.P.No.5010 of 2021 and obtained an order of bail on 01.10.2021. Therefore, on this ground, the respondent police filed the Criminal Original Petition in CrI.O.P(MD).No.16420 of 2021 to cancel the bail granted to the petitioner in Cr.M.P(MD).No.5010 of 2021 on the file of the learned Judicial Magistrate, Uthamapalayam dated 01.10.2021. The learned counsel who is representing the petitioner/accused counsel in CrI.O.P(MD).No.14456 of 2021 took notice for the respondent in CrI.O.P(MD).No.16420 of 2021.

7.It appears that by suppressing the bail application filed and pending before this Court in CrI.O.P(MD).No.14456 of 2021, the accused has moved another application for bail in Cr.M.P(MD).No.5010 of 2021 before the learned Judicial Magistrate, Uthamapalayam and the learned Judicial Magistrate, Uthamapalayam by order dated 01.10.2021 granted bail to the accused. By admitting that the



accused is prepared to maintain his wife and children, an adjournment was obtained to file the undertaking affidavit. On the other hand in order to evade the maintenance of his wife and three children, suppressing the filing and pendency of bail application before this Court, an application was filed before the Court below and bail was granted.

8.Considering the nature of offence, conduct of the accused and the manner in which bail was granted to him by the Court below, this Court is passing the following order:-

(i)the bail granted to the accused by the learned Judicial Magistrate, Uthamapalayam in Cr.M.PNo.5010 of 2021 dated 01.10.2021 is hereby set aside and the application filed by the investigating agency for cancellation of bail in Crl.O.P(MD).No.16420 of 2021 stands allowed.

(ii) the application filed by the petitioner seeking bail in Crl.O.P(MD).No.14456 of 2021 stands dismissed.

sd/-
01/12/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE,UTHAMAPALAYAM.
- 2 DO THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
ODAIPATTI POLICE STATION, THENI DISTRICT.
- 4 THE INSPECTOR OF POLICE,
UTHAMAPALAYAM CIRCLE,THENI DISTRICT.
- 5 THE OFFICER INCHARGE,
SUB JAIL, KANDAMANOOR,THENI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.14456 &
16420 of 2021
Date :01/12/2021

PKP/VR/SAR-3/04.12.2021/3P/7C

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