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Crl.M.P.No.2217 of 2022

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in
Crl.O.P.No.20028 of 2021

M.DHANDAPANI,J.

This Criminal Miscellaneous Petition has been filed to cancel the bail granted to the respondents/accused 2 to 4 in Crl.O.P.No.20028 of 2021 vide order dated 27.10.2021 in Crime No.27 of 2021 on the file of the W-30, All Women Police Station at Poonamallee.

2. The learned counsel for the petitioner submitted that the accused/respondents 2 to 4 have not complied with the conditions imposed by this Court and threatened the petitioner to withdraw the complaint. Hence, he prays for cancellation of bail granted in favour of the respondents 2 to 4.

3. It is trite that bail is norm and jail is exception. Section 439 (2) of Cr.P.C. clothes the Court with the power to deal with issue relating to the cancellation of bail. The Supreme Court in ***Daulat Ram – Vs – State of Haryana (1995 (1) SCC 439)*** has enumerated the following supervening factors that justify cancellation of bail :-

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- i) Interference or attempt to interfere with the due course of administration of justice;*
- ii) Evasion or attempt to evade the due course of justice;*
- iii) Abuse of the concession granted to the accused;*
- iv) Possibility of the accused absconding;*
- v) Likelihood of/actual misuse of bail;*
- vi) Likelihood of the accused tampering with the evidence or threatening witnesses;*
- vii) Other supervening circumstances, which have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by being on bail.*

4. The courts should be more rigid in its examination of violation and proof of violation in matters relating to cancellation of bail. Various decisions of the Hon'ble Apex Court vests the courts with power and discretion to cancel the bail even when there are no supervening circumstances and broadly classified, they could be brought under the following heads :-

- “i) Where the court granting bail ignores relevant material and takes into account irrelevant material of substantial nature and not trivial nature;*
- ii) Where the court granting bail overlooks the position of the accused qua the victim especially if the accused*



is in some position of authority such as a policeman and there is prima facie, a misuse of position and power, including over the victim.

iii) Where the court granting bail ignores the past criminal record and conduct of the accused while granting bail;

iv) Where bail has been granted on untenable grounds;

v) Where the order granting bail suffers from serious infirmities resulting in miscarriage of justice;

vi) Where the grant of bail was not appropriate in the first place, given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified;

vii) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.”

(Emphasis Supplied)

5. In the case on hand, no supervening circumstances have been brought to the notice of the Court, but merely stating that the condition imposed have not been fulfilled and the accused are threatening the

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petitioner. Mere averment would not partake the character of proof and



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when no materials are placed before this Court for cancelling bail, this Court is of the considered view that the present petition deserves to be rejected.

6. Accordingly, this Criminal Miscellaneous Petition is **dismissed**.

24.02.2022

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