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CrI.O.P.No.10343 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM:

THE HON'BLE **MR.JUSTICE N.SATHISH KUMAR**

CRL.O.P.No.10343 of 2022
and CrI.M.P.No.6155 of 2022

R.Rajesh

... Petitioner

Vs.

1.M.Nathiya

2.The State rep. by
The Inspector of Police
W-30, All Women Police Station
Poonamallee, Chennai 600056
(Crime No.14 of 2021)

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed in CrI.M.P.No.4521 of 2021 in CrI.M.P.No.3368 of 2021 dated 28.03.2022 by the learned Principal District & Sessions Judge, Tiruvallur.

For Petitioner : Mr.K.A.Mariappan

For Respondents : Mr.K.Anandharaja



Crl.O.P.No.10343 of 2022

for M/s.Murali Law Firm for R1

Mr.A.Gokulakrishnan
Additional Public Prosecutor for R2

ORDER

This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order passed in Crl.M.P.No.4521 of 2021 in Crl.M.P.No.3368 of 2021 dated 28.03.2022, cancelling the anticipatory bail granted to the petitioner. by the learned Principal District & Sessions Judge, Tiruvallur,

2.Learned counsel appearing for the petitioner would submit that the trial Court has cancelled the order mainly on the ground that the petitioner has suppressed the material facts. In fact, the petitioner did not even know that the F.I.R. has been registered. The petition for anticipatory bail was filed during Covid Pandemic and at that relevant point of time only C.S.R.No.267 of 2021 was pending. The petitioner has not suppressed any material facts.

3.Learned counsel for the 1st respondent / defacto complainant



CrI.O.P.No.10343 of 2022

would submit that admittedly, the Sessions Court has found that there was suppression of fact and the same warrants no interference of this Court. Accordingly, prays for dismissal of the petition.

4.Heard Mr.K.A.Mariappan, the learned counsel for the petitioner, Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor for the respondent police and Mr.K.Anandharaja, for the 1st respondent / defacto complainant.

5.The trial Court vide its order dated 07.08.2021 has granted anticipatory bail to the petitioner in CrI.M.P.No.3368 of 2021. The learned Principal District & Sessions Judge, Tiruvallur proceeded with the order that there is no F.I.R. and only C.S.R.No..267 of 2021 was pending for enquiry. Considering the nature of allegation that there was love affair between the petitioner and the defacto complainant, the trial Court granted an order of anticipatory bail. Thereafter, the learned Principal District & Sessions Judge, Tiruvallur in CrI.M.P.No.4521 of 2021 had cancelled the anticipatory bail granted to the petitioner mainly



Crl.O.P.No.10343 of 2022

WEB COPY

on the ground that the petitioner has suppressed the registration of F.I.R in this case and had obtained the orders of anticipatory bail.

6.The F.I.R. indicates that the complaint was lodged on 12.06.2021. The police not acted swiftly and waited till 06.08.2021 to register the F.I.R. finally that too only at 9.00 p.m. thereafter, it appears to have been sent to the concerned Magistrate on the next day.

7.The above facts, clearly indicate that prior to the registration of F.I.R, the complaint was treated only as C.S.R. Such being the position, it cannot be said that the petitioner has suppressed the material facts and obtained the orders. Registering the F.I.R in the night hours and sending it to the concerned Magistrate Court will not be within the knowledge of the accused. Such being the case, knowledge of registering the F.I.R. cannot be attributed to the petitioner. The trial court has not gone through the records properly and had simply cancelled the bail granted to the petitioner.



Crl.O.P.No.10343 of 2022

WEB COPY

8.Once the bail is already granted, cancelling the bail should be sparingly done, considering the gravity of the offence and the nature of the allegations. The very allegation in the F.I.R clearly indicates that there was love affair between the petitioner and the defacto complainant from the year 2017 and there was some strained relationship existed between them thereby the complaint filed and F.I.R. registered.

9.Considering the nature of allegations, this Court is of the view that the cancellation of the anticipatory bail by the trial Court has no merits. Merely because the police has registered the F.I.R. in the night hours cannot be said that the petitioner has suppressed it.

10.In the result, this Criminal Original Petition stands allowed. The order of cancelling the anticipatory bail in Crl.M.P.No.4521 of 2021 dated 28.03.2022 by the learned Principal District and Sessions Judge, Tiruvallur is set aside and the original order passed in Crl.M.P. No.3368 of 2021 dated 07.08.2021 is restored. The petitioner shall



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Crl.O.P.No.10343 of 2022

N.SATHISH KUMAR, J.

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cooperate with the investigation and appear before the Investigation Officer as and when required for further medical examination. Consequently, the connected miscellaneous petition is closed.

04.07.2022

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Index: Yes / No

Internet : Yes / No

Speaking / Non Speaking order

To.

1.The Inspector of Police
W-30, All Women Police Station
Poonamallee, Chennai 600056
(Crime No.14 of 2021)

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

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