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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.04.2022

CORAM :

THE HON'BLE MRS. JUSTICE S.KANNAMMAL

Crl.M.P.No.10822 of 2021

in

Crl.O.P.No.9201 of 2021

Parameswari

...petitioner

Versus

1.R.Mariammal  
2.Balaji @ J.P.

3.State: Rep.by  
The Inspector of Police,  
P-2, Otteri Police Station,  
Chennai.

...Respondents

Criminal Miscellaneous Petition filed under Section 439 (2) of Criminal Procedure Code praying to cancel the Anticipatory bail granted to the respondent 1 & 2 / petitioners / accused in Crl.O.P.No.9201 of 2021 dated 13.05.2021 by this Court.

For Petitioner : Mr.R.Muthu Kumar

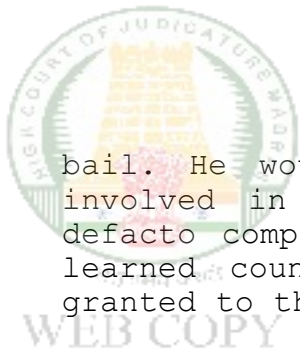
For R1 and R2 : Mr.C.Mohanraj

For R3 : Mr.S.Balaji  
Government Advocate (Crl.Side)

ORDER

This petition has been filed by the petitioner / defacto complainant, seeking to cancel the anticipatory bail granted to the respondents 1 and 2 herein by this Court in Crl.O.P.No.9201 of 2021 dated 13.05.2021.

2. The learned counsel for the petitioner would submit that the respondents 1 and 2, who are accused in Crime No.330 of 2021 on the file of the 3<sup>rd</sup> respondent, had misrepresented the facts before this Court as if they are father and mother of one Selvam @ Selva Raj (A1) and that they were not involved in the offence and there is no specific overt act against them and thereby obtained anticipatory



bail. He would further submit that the respondents 1 and 2 were involved in the offence since they abetted the husband of the defacto complainant and drove him to commit suicide. Therefore, the learned counsel sought for cancellation of the anticipatory bail granted to the respondents 1 and 2.

3. The learned Government Advocate would submit that already investigation is completed and charge sheet is likely to be filed within a period of one week before the concerned Judicial Magistrate Court by the 3<sup>rd</sup> respondent police. In any event, the learned Government Advocate would submit that considering the submissions made on behalf of the learned counsel for the respondents 1 and 2, this Court has granted bail to the respondents 1 and 2, which is sought to be cancelled at the instance of the defacto complainant.

4. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the 3<sup>rd</sup> respondent.

5. The defacto complainant mainly contends that by suppressing the material particulars, the respondents 1 and 2 have obtained bail. It is his contention that the submissions put forth on behalf of the respondents 1 and 2 as if they are innocent is per se false and that they have committed the offence. This submission cannot be gone into by this Court at this stage. It is for the trial Court to decide the culpability and criminality of the offence committed by the respondents 1 and 2. Further, only during trial, the offence said to have been committed by the respondents 1 and 2 can be proved by the prosecution by letting in oral and documentary evidence. In any event, on the basis of the grounds pleaded in the present petition, bail granted to the respondents 1 and 2 cannot be cancelled. It is well settled that the bail granted in favour of an accused can be cancelled only if it is shown that (i) the accused did not comply with the conditions, which are precedent for grant of bail (ii) the accused are likely to flee out of the Country or they may not be available for trial and there is likelihood of their absconding from the normal place of residence and (iii) there are evidence to show that the accused are attempting to tamper with the material evidence which may likely to cause prejudice to the prosecution in conducting trial against the accused. Unless the aforesaid conditions are fulfilled to the satisfaction of the Court, a bail granted to an accused cannot be cancelled. In the present case, none of the above parameters have been fulfilled and therefore, the petition filed at the instance of the defacto complainant is not maintainable.

6. Furthermore, it is submitted by the learned Government Advocate that already investigation is over and the 3<sup>rd</sup> respondent police is likely to file the charge sheet before the competent Court. Therefore, this Court is not inclined to entertain the present petition.



7. Accordingly, this Criminal Miscellaneous Petition is dismissed.

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-sd/-

04/04/2022

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 METROPOLITAN MAGISTRATE,  
NO.X, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN  
MAGISTRATE, EGMORE, CHENNAI. [FOR  
INFORMATION]

3 THE INSPECTOR OF POLICE,  
P-2, OTTERI POLICE STATION,  
CHENNAI.

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

C.C. to M/S R.MUTHUKUMAR Advocate on payment of necessary charges

Order

in  
CRL MP.10822/2021

in  
CRL OP.9201/2021

Date :04/04/2022

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

RW 19/04/2022