



CrI.O.P.No.14801 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM:

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

CRL.O.P.No.14801 of 2022

Velmurugan

... Petitioner

Vs.

State by
The Inspector of Police
All Women Police Station
Kangayam
Tiruppur District
(Cr;.No.13/2019)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and set aside the order dated 22.04.2022 made in CrI.M.P.No.213 of 2022 in Special S.C.No.42 of 2021 (on the file of the Mahila Court, Tiruppur).

For Petitioner : Mr.D.Ashok Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (CrI. Side)

ORDER



Crl.O.P.No.14801 of 2022

WEB COPY

This Criminal Original Petition is filed u/s.482 Cr.P.C. to call for the records and set aside the order dated 22.04.2022 made in Crl.M.P.No.213 of 2022 in Spl.S.C.No.42 of 2021 on the file of Mahila Court, Tiruppur, cancelling the bail granted to the accused.

2.Accused no doubt was charged for the offence u/s.5(j)(ii) r/w Section 6 of the POCSO Act and 305, 376(B) I.P.C. The bail was originally granted by the trial Court and the accused also appeared before the trial Court as per the adjudication of the trial Court.

3.Learned counsel for the petitioner would submit that without any substance to back the allegation of the prosecution, the bail of the accused was cancelled. It is the contention of the learned counsel for the petitioner that the allegation of threat is baseless and was made only in order to cancel the bail.

4.Heard Mr.Leonard Arul Joseph Selvam, the learned Government Advocate (Crl. Side). I also perused the adjudication orders of the trial



5.The case was taken on file on 25.06.2021 before the learned Sessions Judge. Thereafter, it appears that the summons were not served on the accused since he was already in custody at Goa. Thereafter, the matter kept on adjudicating till 01.04.2022. Meanwhile, the physical hearing was also suspended from 03.01.2022 due to COVID lockdown. The accused had appeared before the trial Court on 01.04.2022 and copies u/s.207 Cr.P.C. were also furnished. On 04.04.2022, charges were framed against the accused and the matter was posted on 06.04.2022 and 08.04.2022, both the days the accused was present. At that time CrI.M.P.No.213 of 2022 was filed on the side of the prosecution by the Special Public Prosecutor, alleging that the accused after his release on bail has been threatening the complainant and other witnesses from the date of his release. Therefore the witnesses are not willing to give evidence against the accused.

6.It is relevant to note that the accused was originally released on



CrI.O.P.No.14801 of 2022

bail on 30.07.2020 and thereafter he was on custody at Goa and no complaint whatsoever is received from the other witnesses. By mere allegation of the prosecution that the accused is threatening the witnesses, the learned Sessions Judge cancelled the bail and NBW was issued. It is well settled that once the bail is granted, cancellation of the bail should be done sparingly on an exceptional circumstances. By mere allegation of the prosecution and without any material to prove the accusation, the bail was cancelled. Now the accused is again absconding and NBW is pending. The manner in which the bail already granted was cancelled is not on any evidence. The trial Court has not even verified whether the allegation contained in the petition filed by the Special Public Prosecutor is correct or not.

7. Therefore, such view of the matter, the cancellation of bail order dated 22.04.2022 made in CrI.M.P.No.213 of 2022 in Spl.S.C.No.42 of 2021 on the file of Mahila Court, Tiruppur, is set aside.

8. It is stated that the next hearing date is on 22.07.2022. On that



Crl.O.P.No.14801 of 2022

day onwards the accused should appear before the trial Court regularly. It is made clear that if the accused fails to appear before the trial Court on the next date of hearing, the order of cancellation of bail will revive automatically. The trial Court shall also issue summons to the accused and conduct the trial on day to day basis and complete the trial expeditiously.

9.In the result, this Criminal Original Petition stands disposed of.

08.07.2022

kas

Index: Yes / No

Internet : Yes / No

Speaking / Non Speaking order

N.SATHISH KUMAR, J.

kas



Crl.O.P.No.14801 of 2022

WEB COPY To

1.The Inspector of Police
All Women Police Station
Kangayam
Tiruppur District

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

CRL.O.P.No.14801 of 2022

08.07.2022