

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.01.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.MP.No.9376 of 2021

in Crl.OP.No.20891 of 2020

Tamilarasan

...Petitioner

Vs.

1.The Inspector of Police,
Barur Police Station,
Krishnagiri District.

2.Gokul
3.Gopi
4.Rajendiran
5.Poovi

...Respondents

PRAYER: Criminal Miscellaneous Petition is filed under Section 482 of the Code of Criminal Procedure, praying to cancel the anticipatory bail dated 30.12.2020 in Crl.O.P.No.20891 of 2020 granted to all the accused.

For petitioner : Mr.Rameshmanikandan

For R1 : Mr.N.Muthuvel
Government Advocate (Criminal side)

For R2 to R5 : Mr.M.Selvam
Government Advocate (Criminal side)

ORDER

This petition is filed for cancelling the bail granted to the accused/petitioners in Crl.O.P.No.20891 of 2020. This Crl.O.P.No.20891 of 2020 was filed by accused/petitioners seeking anticipatory bail in Crime No.713 of 2020 of Barur Police station, Krishnagiri District.

2. The case concerned in this Crime No.713 of 2020 was registered under Sections 294(b), 323, 324, 447 and 506 (ii) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2002. When the matter came up for hearing on 30.12.2020, this Court, after hearing the counsel appearing for accused and the Government Advocate appearing for State granted anticipatory bail with usual conditions.

Challenging the grant of anticipatory bail, the de-facto complainant filed this petition to cancel the anticipatory bail granted to the respondents 2 to 5. It is alleged by the petitioner that the second respondent is practicing Advocate in Krishnagiri Court. He threatened the family members of the petitioner one Ariakal. Ariakal is petitioner's close relative. Her son name Murugesan is a main witness in this case. Respondent Poovi is rearing dogs like hunting dogs. On 15.06.2021, about 5.30pm, he unleashed the dog and that dog had bitten Ariakal. A complaint was given on 16.06.2021 and registered in C.S.R.No.87 of 2021. Respondents are doing this to prevent Murugesan from giving evidence against the respondents. They also threatening one Parasuraman, who is also a witness in this case. Therefore, this petition.

3.The first respondent filed counter denying the allegations made and it is submitted that Ariakal in fact had given a complaint on 16.06.2021 and it was registered in C.S.R.No.87 of 2021. During the course of enquiry, Ariakal had given a written statement that no action is necessary on the basis of her complaint which was registered in C.S.R.No.87 of 2021. Therefore, the C.S.R.No.87 of 2021 was closed as no further action is necessary. It is also seen from the counter that the investigation in Crime No.713 of 2020 is completed. Final report had been filed and case was taken on file in CC.No.13 of 2021. Respondents 2 to 5 filed Crl.OP.No.4527 of 2021 and Crl.OP.No.5192 of 2021 on the file this Court to quash the proceedings in CC.No.13 of 2021 and vide orders passed on 08.03.2021 and 15.03.2021, further proceedings in CC.No.13 of 2021 is stayed and personal appearance of respondents 2 to 5 is dispensed.

4. The learned counsel for the respondents 2 to 5 denied the allegations made against the respondents 2 to 5.

5. The principles with regard to the cancellation of bail is very well settled. It is observed in 2021 SCC Online SC 854 in (Vipan Kumar Dhir Vs. State of Punjab and another), that

"At the outset, it would be fruitful to recapitulate the wellsettled legal principle that the cancellation of bail is to be dealt on a different footing in comparison to a proceeding for grant of bail. It is necessary that 'cogent and overwhelming reasons' are present for the cancellation of bail. Conventionally, there can be supervening circumstances which may develop post the grant of bail and are non conducive to fair trial, making it necessary to cancel the bail. This Court in Daulat Ram and others Vs. State of Haryana observed that:

"Rejection of bail in a nonbailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail,

broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of Justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial." These principles have been reiterated time and again, more recently by a 3-judge Bench of this Court in X Vs. State of Telegana and Another."

6.From the perusal of the records and submission of the learned Government Advocate appearing for R1, counter, it is seen that investigation in Crime No.713 of 2020 is over, final report is filed, case is taken on file. Now further proceedings in CC.No.13 of 2021 is stayed. Petition for cancellation of anticipatory bail filed primarily on the reason that respondents 2 to 5 threatened witness, especially son of Ariakal, Murugesan and one Parasuraman. However, the learned counsel for the petitioner has not produced any material to show that whether the said Murugesan had given any complaint in the police station with regard to the threatening or intimidatory activities of the respondents. Without any material in support of the claim of threatening, intimidation, mere oral statement cannot be accepted. As far, the other allegation that respondent Poovi unleashed her dog on Ariakal and the dog had bitten Ariakal is concerned, it is now made clear that Ariakal had given a written statement that no action is necessary on the basis of her complaint. Therefore, the petitioner is not able to come out a case for cancellation of anticipatory bail granted to the respondents 2 to 5. Therefore, this Criminal Miscellaneous Petition is dismissed with the costs of the respondents.

-sd/-
10/01/2022

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, POCHAMPALLI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
BARUR POLICE STATION,
KRISHNAGIRI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

COPY TO

THE SECTION OFFICER,
VR SECTION,
HIGH COURT, MADRAS.

+1 C.C. to M/S. A.RAMESHMANIKANDAN Advocate on payment of
necessary charges SR.NO.455

+1 C.C. to M/S. M.SELVAM Advocate on payment of necessary
charges SR.NO.552

Order

in
CRL MP.9376/2021

in
CRL OP.20891/2020

Date :10/01/2022

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INBA~08/02/2022