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Crl.R.C.No.1310 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.1310 of 2022

Anbzhagan @ London Anbzhagan .. Petitioner

Vs

State rep. by The Inspector of Police, L&O
Aanaikkaranchathiram Police Station
Nagapattinam.
Crime No.98 of 2022.

.. Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 Code of Criminal Procedure, to call for the records of the learned Principal District and Sessions Judge, Nagapattinam and set aside the order dated 29.08.2022 in Cr.M.P.No.975 of 2022.

For Petitioner : Mr.M.R.Jothimanian
for Mr.K.Balu

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)



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ORDER

The revision is filed aggrieved by the order of the learned Principal District and Sessions Judge, Nagapattinam dated 29.08.2022 in Cr.M.P.No.975 of 2022. In Cr.M.P.No.779 of 2022, in and by which the bail which is granted by the Trial Court earlier was cancelled. The ground on which the bail was cancelled is that the petitioner is a person having antecedents of seven previous cases. This was not brought to the notice of the Court at the time of release of petitioner on bail. Therefore, on this sole ground, the bail is cancelled.

2. Heard *Mr.M.R.Jothimanian* for *Mr.K.Balu*, learned counsel appearing on behalf of the petitioner and *Mr.S.Vinoth Kumar*, learned Government Advocate (Crl. Side) appearing for the respondent.

3. Learned counsel for the petitioner would submit that the petitioner was in custody for eleven days. He would further submit that it was not the fault of the petitioner or his counsel, in not bringing the antecedents to the notice of the Court. Therefore, for no fault of the petitioner, the bail is cancelled.



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4. *Per contra*, learned Government Advocate (Crl. Side) would submit that in any event, the antecedents is a relevant factor for consideration, especially considering the serious nature of the case which is under Section 307 of the Indian Penal Code. He would further submit that even among the earlier seven cases, there is another case under Section 307 of the Indian Penal Code and it is very relevant and pertinent factor which was not brought to the notice of the Trial Court and therefore, the Trial Court has rightly cancelled the bail of the petitioner.

5. I have considered the submissions made on either side.

6. There can be no two opinion that if the antecedents of the petitioner / accused are not brought to the notice of the Court and if such antecedents are brought to the notice of the Court, the Court would not have exercised the jurisdiction, can certainly be a ground for cancellation of bail. But, however, it is not the only factor which should be considered for the purpose of cancellation of bail. The Hon'ble Supreme Court of India, in the decision of ***Dolat Ram vs. State of Haryana***¹ has held that

¹ 1995 1 SCC 349



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apart from the factors, there must be a necessity / supervening circumstances, requiring the custody of the petitioner so as to pass an order of cancellation of bail. In this case, it is seen that the offence is under Section 307 of the Indian Penal Code and the injured was discharged from the hospital and considering the said factors, the Court granted bail to the petitioner and therefore, the cancellation thereof, at this stage, may not be warranted for any other purpose except for the purpose that the facts were not brought to the notice of the Court.

7. In that view of the matter, the order of the learned Principal District and Sessions Judge, Nagapattinam dated 29.08.2022 in Cr.M.P.No.975 of 2022 is set aside. The earlier order of bail granted in Cr.M.P.No.779 of 2022 is restored along with the original conditions imposed.

Index : yes/no
Speaking/Non-speaking order
drm

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To

1. The Inspector of Police, L&O
Aanaikkaranchathiram Police Station
Nagapattinam.
Crime No.98 of 2022.
2. The Principal District and Sessions Judge, Nagapatinam.
3. The Public Prosecutor, High Court of Madras.



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D.BHARATHA CHAKRAVARTHY, J.

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