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Crl.O.P.No.22879 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.OP.No.22879 of 2022

and

Crl.MP.No.14681 of 2022

Raja @ Kakithapattarai Raja

...Petitioner

/vs/

The State represented
by the Inspector of Police
Vellore North Crime Police Station,
Vellore District.

...

Respondent

Prayer : The Criminal Original Petition has been filed under Section 482 of Cr.P.C to set aside the order passed by the learned Principal Sessions Judge, Vellore, Vellore District in Crl.MP.No.1265 of 2022 in Crl.MP.No.4232 of 2021 dated 06.09.2022.

For Petitioner

... Mr.E.Kannadasan

For Respondent

... Mr.E.Raj Thilak

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order passed by the learned Principal Sessions Judge, Vellore, Vellore District, in



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Crl.MP.No.1265 of 2022 in Crl.MP.No.4232 of 2021 dated 06.09.2022.

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2. The learned counsel for the petitioner has submitted that the respondent police registered a case for offence punishable under Section 399 of IPC in Cr.No.254 of 2021. In that case, the petitioner herein applied for bail in Crl.MP No.4232 of 2021 on 08.11.2021 in which, bail was granted with a condition that he should appear for a period of 30 days before the respondent police daily at 10.30 a.m., He was released on bail on 09.11.2021. The next day he suffered leg pain and hence he underwent medical treatment at V.V.Clinic on 10.11.2021 and he failed to intimate the said fact to his counsel. Therefore, he has not complied with the condition imposed by the trial court.

3. Under such circumstances, after a long period, the Additional Public Prosecutor, moved a petition in Cr.No.1265 of 2022 before the Principal Sessions Court, Vellore, for cancellation of bail and that was cancelled on 06.09.2022 for non-compliance of the conditions imposed in Crl.MP.No.4232 of 2021 on 08.11.2021. After a long period, it is unsustainable seeking to set aside the order and restore the bail petition.



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4. When the matter is taken up for hearing, the learned Additional Public Prosecutor has submitted that the case has been registered against the petitioner in Cr.No.254 of 2021 for the offence punishable under Section 399 of IPC. Further, he submitted that the petitioner is having 8 previous cases and in this case, he was released on bail on 08.11.2021 on condition that he shall appear before the respondent police for 30 days daily at 10.30 a.m., and for non-compliance of the said condition, the bail has been cancelled and objected to set aside the order.

5. I have considered the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and perused the materials available on record.

6. On perusal of records, it is seen that the respondent police has registered a case against the petitioner in Cr.No.254 of 2021 for the offence punishable under Section 399 of IPC. In this case, he sought bail in CrI.MP.No.4232 of 2021 and the bail was granted on 08.11.2021 on a



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condition that he shall appear before the respondent police daily at 10.30 a.m., only for a period of 30 days. He was released on bail on 09.11.2021. The next day, he suffered leg pain and underwent medical treatment and he could not comply the condition,. There is no material on record to show that the respondent police has immediately moved for cancellation of bail on the ground of non-compliance of the condition by the petitioner imposed by the trial court. They moved the bail petition belatedly on 06.09.2022, after a long period, for cancellation of bail. Accepting the petition, the learned trial court Judge, has cancelled the bail.

7. This court, on perusal of the said order, opines that the bail petition has been cancelled only on the ground of non-production of medical certificate by the petitioner for the treatment taken by him for leg pain. No doubt, the petitioner has not filed any medical certificate to show that he has taken treatment for leg pain. The prosecution has not immediately reported the matter of non-compliance of the condition by the petitioner. It is to be noted that the condition imposed by the trial court is only for 30 days and not for a long period. In such circumstances, without assigning any reason



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for belatedly moving a petition on 06.09.2022 for cancellation of bail, I find no bonafide in the submission of the Additional Public Prosecutor and also the reason substantiated by the learned Trial Court Judge, is not acceptable. Therefore, I find no merit in setting aside the order passed in Crl.MP.No.1265 of 2022 in Cr.No.254 of 2021. The bail order already granted has been restored and the petitioner is permitted to continue on bail with the same sureties already executed on 08.11.2022 in Crl.MP.No.4232 of 2021. Further, on receiving summons, the petitioner is directed to appear before the trial court.

8. In the result, the Criminal Original Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.10.2022

Index : Yes/No
Internet: yes/No
gv



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V.SIVAGNANAM ,J.

gv

To

- 1.The Principal Sessions Judge,
Vellore, Vellore District
- 2.The Inspector of Police
Vellore North Crime Police Station,
Vellore District.
- 3.The Public Prosecutor,
High Court, Madras.

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