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Crl.M.P.No.15389 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.MP.No.15389 of 2022  
in Crl.OP.No.12546 of 2021

R.Rajesh .. Petitioner/Defacto complainant  
Vs.

1. K.Srinivasa Rao

2. S.Tarun Krishna Prasad ....Respondents/Accused

3. The Additional Commissioner of Police (North)  
O/o. The Commissioner of Police,  
Veppery, Chennai-7.

4. The Inspector of Police,  
CBCID, Vepery, Chennai-7. .. Respondents

**PRAYER:** Criminal Original Petition filed under Section 439(2) of the Code of Criminal Procedure, to cancel the anticipatory bail granted to the respondents 1 & 2 (A1 & A2) passed by this Court in Crl.OP.No.12546 of 2021 dated 30.07.2021.

For Petitioner : Mr.P.Vijendran

For Respondent No.1 : Mr.C.K.Chandrasekar RR1 & 2  
Mr.R.Moorthy, GA (Crl.side)  
for RR3 & 4



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### **ORDER**

This petition has been filed to cancel the anticipatory bail granted to the respondents 1 & 2 (A1 & A2) passed by this Court in Crl.OP.No.12546 of 2021 dated 30.07.2021.

2. The respondents 1 & 2/accused have implicated for the offences under Sections 147, 323, 347, 384 and 420 IPC in Cr.N0.4 of 2021 on the file of the respondent police for creation of fraudulent sale deed. The respondents 1& 2/accused apprehending arrest at the hands of the respondent police filed a petition seeking anticipatory bail in Crl.M.P.No.12546 of 2021. This Court, vide order dated 30.07.2021, granted anticipatory bail to the petitioners on the ground that the first respondent/accused himself has come forward to file an affidavit to cancel the said sale deed. Aggrieved by the same, the present petition is file to cancel the anticipatory bail granted to the petitioner,

3. The learned counsel appearing for the petitioner submitted that while granting anticipatory bail, this Court imposed certain conditions on the respondents 1 & 2, but the respondents have not complied with the said



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condition. Therefore, on the earlier occasion, the petitioner has filed a petition in Crl.MP.No.858 of 2022 before this Court to cancel the anticipatory bail. Subsequently, the sale deed which was created by the respondents 1 & 2, have cancelled vide doc.2312 of 2022 dated 21.02.2022. Therefore, this Court closed the above said petition on 23.03.2022. The grievance of the defacto complainant is that prior to filing the anticipatory bail petition, the first respondent has entered into a lease agreement with the third parties, that was not disclosed before this Court while granting bail to them and suppressed the entire fact and obtained an anticipatory bail, which is non-est in law and therefore, the anticipatory bail granted by this Court is liable to be cancelled.

4. Considering the facts and circumstances of the case, this Court is of the view that once this Court had granted anticipatory bail on independent appreciation of materials, the same cannot be interfered with, except in supervening circumstances and the Hon'ble Supreme Court in the decision reported in **1995 (1) SCC 349 (Daulat Ram Vs. State of Haryana)** has elaborately dealt with the said issue and it is relevant to extract the



following:

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*"4. Rejection of bail in a non-bailable 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, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non-bailable case in the*



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*first instance and the cancellation of bail already granted."*

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5. In view of the decision rendered by the Hon'ble Supreme Court in the Daulat Ram (Supra), since no supervening circumstances arises for consideration to cancel anticipatory bail to the respondents 1 & 2, the grounds raised by the petitioner cannot be considered by this Court.

6. Accordingly, this Criminal Original Petition is dismissed. However, liberty is granted to the petitioner/defacto complainant to work out his remedy before the competent forum for cancelling the lease agreement.

**11.10.2022**

Speaking/Non Speaking order

Index : Yes/No

Internet: Yes/No

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**M.DHANDAPANI,J.**

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To

1. The Additional Commissioner of Police (North)  
O/o. The Commissioner of Police,  
Veppery, Chennai-7.
2. The Inspector of Police,  
CBCID, Vepery, Chennai-7.
3. The Public Prosecutor,  
High Court, Madras.

Crl.MP.No.15389 of 2022  
in Crl.OP.No.12546 of 2021

**11.10.2022**