



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Thirteenth day of December Two Thousand and Twenty Two

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) Nos.5294 & 5716 of 2022
IN
CRL OP(MD) No.6053 of 2022

CRL.MP(MD) .5294/2022:

J.SUSEELA	...	PETITIONER
Vs		
1 J.SUSAI		
2 AMALA	...	RESPONDENTS/ACCUSED Nos.1 & 2
3 THE INSPECTOR OF POLICE SOUTH GATE POLICE STATION, MADURAI - 1.	...	RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Pass an order of direction to cancel the Anticipatory Bail granted to the Respondents 1 and 2 by this Honourable Court on Crl.O.P.No.6053/2022 dt 01.04.2022 in Cr.No.119/2022.

CRL.MP(MD) .5716/2022:

1 J.SUJAY CHRISTIAN RAJ @ SUJAI		
2 AMALA	...	PETITIONERS/ACCUSED Nos.1 & 2
Vs		
THE STATE REP.BY THE INSPECTOR OF POLICE SOUTH GATE POLICE STATION, MADURAI - 1.	...	RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant extension of time for a period of two weeks imposed by the order made in Crl.OP(MD)No.6053/2022 dt.1/4/2022.



Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.RAMASAMY.R, Advocate for the petitioner in CRL.MP(MD).5294/2022 and Mr.K.DINESH, Advocate for the Petitioners in CRL.MP(MD).5716/2022 & for the Respondents No.1 & 2 in CRL.MP(MD).5294/2022 and of M/s.M.AASHA, Government Advocate on behalf of the 3rd Respondent in CRL.MP(MD).5294/2022 & for the Respondent in CRL.MP(MD).5716/2022, the court made the following order:-

The petition in Crl.M.P.(MD)No.5294 of 2022 has been filed under Section 439(2) Cr.P.C., seeking orders to cancel the anticipatory bail granted in Crl.O.P.(MD)No.6053 of 2022 dated 01.04.2022 to the respondents 1 and 2/accused 1 and 2 in connection with Crime No.119 of 2022 on the file of South Gate Police Station, Madurai.

2. The petition in Crl.M.P.(MD)No.5716 of 2022 has been filed seeking orders for extension of time to comply with the conditions imposed by this Court in Crl.O.P.(MD)No.6053 of 2022 dated 01.04.2022.

Crl.M.P. (MD)No.5294 of 2022

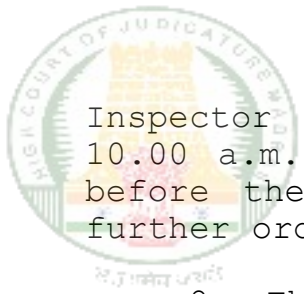
3. Admittedly, the petitioner/defacto complainant is none other than the mother of the first respondent/first accused and that the second respondent/second accused is the wife of the first respondent/first accused.

4. On the basis of the complaint lodged by the petitioner/defacto complainant, FIR came to be registered in Crime No.119 of 2022 dated 28.03.2022 against the respondents 1 and 2 for the offences under Sections 294(b), 323 and 506(1) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

5. It is evident from the records that the respondents 1 and 2 have filed a petition in Crl.O.P.(MD)No.6053 of 2022 seeking anticipatory bail, that the petitioner was permitted to intervene in the above petition and that this Court, after enquiry, has passed an order dated 01.04.2022 granting anticipatory bail to the respondents 1 and 2 by imposing certain conditions.

6. The case of the prosecution in Crl.O.P.(MD)No.6053 of 2022 is that there existed family dispute between the petitioner and the respondents 1 and 2 with regard to sharing of ancestral properties and that the respondents 1 and 2 have abused the petitioner in filthy language, attacked her and caused injuries.

7. This Court, while granting anticipatory bail to the respondents 1 and 2, has directed them to report before the



Inspector of Police, Contonment Police Station, Trichy, at 10.00 a.m., for a period of 15 days and thereafter, shall report before the respondent police therein daily at 10.00 a.m., until further orders.

8. The case of the petitioner is that the main condition imposed by this Court to report before the Inspector of Police, Contonment Police Station, Trichy, for a period of 15 days was only to avoid further quarrels between the petitioner and the respondents 1 and 2, but the same was completely thwarted by the respondents 1 and 2, that after the order of this Court, the petitioner has returned back to her residence and thereafter, the respondents 1 and 2 were giving torture to her to withdraw the case lodged against them, that the respondents 1 and 2 have been forcing the petitioner to withdraw the case lodged against them or else they are threatening to kill her, that the petitioner submitted a complaint with the third respondent police, that the complaint given by the petitioner to the third respondent police was not accepted and hence, after 2 hours dharna by the petitioner, the third respondent police scolded her in filthy language and after 2 hours struggle, the third respondent police issued a CSR to the petitioner, that the third respondent police had not taken any action against the respondents 1 and 2 for their behaviour with the petitioner and also disobeyed the order of this Court and that therefore, the petitioner was constrained to file the above application for cancellation of anticipatory bail.

9. The respondents 1 and 2 have filed a counter statement stating that the petitioner and her daughter taking advantage of the illiteracy and low IQ of the first respondent, they have created a partition document, wherein, a lesser portion of property was given to the first respondent and major portion was taken by the petitioner's daughter, that the first respondent, after coming to know about the fraudulent act played, filed a complaint before the Land Grabbing Cell, Madurai, as well as before the third respondent police, that though CSR No.78 of 2022 was issued, no action was taken and hence, the second respondent had filed a writ petition in W.P.(MD)No.6219 of 2022 to take action against the mother and sister of the first respondent for allegedly forging the documents and the same was allowed on 06.04.2022 directing the third respondent therein to consider her representation and to take action against them, that the petitioner has lodged a complaint and on that basis, FIR came to be registered in Crime No.119 of 2022, that though this Court has granted anticipatory bail to the respondents 1 and 2, they could not produce the sureties in time before the trial Court as ordered, for which, they have filed a petition for extension of time in Crl.M.P.(MD)No.5716 of 2022 and the same is pending.

10. It is further case of the respondents 1 and 2 that the respondents 1 and 2 have not violated any condition passed by this Court. At the anticipatory bail cancellation petition is filed



only with assumption and surmise without any iota of material at the bail already granted can be cancelled on showing the supervening circumstances and that therefore the anticipatory bail cancellation application ought to have been dismissed.

11. The third respondent-Inspector of Police has filed a counter affidavit stating that the respondents 1 and 2 have not complied with the conditions imposed by this Court and also failed to appear before the respondent police at 10.30 a.m., that the petitioner has again approached the station and lodged a complaint against her son and on that basis, CSR was registered and that the anticipatory bail granted to the respondents 1 and 2 may be cancelled.

12. Before entering into further discussion, it is necessary to refer the Section 439(2) Cr.P.C.:

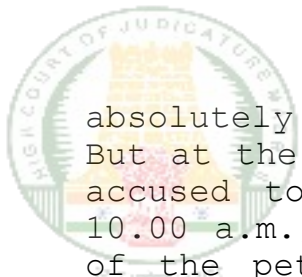
"439(2): A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody."

13. It is settled law that once bail is granted to any person, the same cannot be cancelled in a mechanical manner without there being supervening circumstances, which are not conducive for fair trial. The Hon'ble Supreme Court in **State (Delhi Administration) Vs. Sanjay Gandhi** reported in **(1978)2 SCC 411**, has specifically held that the power to take back in custody an accused who has been enlarged on bail has to be exercised with care and circumspection. No doubt, the High Court can cancel the bail in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice.

14. The petitioner has alleged that she has preferred complaints for subsequent conduct of the respondents 1 and 2, but the police has only issued CSR and refused to register FIR. Though the petitioner has alleged that the complaints given to the police were of no avail, it is not her case that she has preferred any complaint before the higher police officials.

15. The only contention is that the respondents 1 and 2, after getting anticipatory bail, have been giving torture to the petitioner to withdraw the case. But as rightly pointed out by the learned counsel appearing for the respondents 1 and 2, the petitioner has not furnished any other particulars of date, time, place and the manner in which the subsequent incidents were occurred.

16. Considering the above, this Court has no hesitation to hold that the petitioner has not assigned any valid reason or ground for cancelling the anticipatory bail. Hence, this Court concludes that the above application seeking cancellation of anticipatory bail is



absolutely devoid of merits and the same is liable to be dismissed. But at the same time, in the earlier order, this Court directed the accused to report before the Contonment Police Station daily at 10.00 a.m., for a period of 15 days. But considering the complaint of the petitioner and facts and circumstances of the case, this Court is of the view that the condition imposed is to be modified.

Crl.M.P. (MD)No.5716 of 2022

17. Admittedly, the petitioners have not produced the sureties within the time stipulated by this Court.

18. The learned counsel appearing for the petitioners would submit that the petitioners had failed to produce sureties within the time stipulated and that therefore, they were constrained to file the above application seeking orders for extension of time.

19. Considering the entire facts and circumstances and also taking note of the fact that this Court is not inclined to cancel the anticipatory bail given to the petitioners, this Court is of the view that the petitioners should be given one more opportunity to comply with the conditions imposed by this Court.

20. In the result, **the petition in Crl.M.P. (MD)No.5294 of 2022 is dismissed** and the respondents 1 and 2/accused are directed to appear before the Inspector of Police, Contonment Police Station, Trichy District daily at 10.30 a.m., for a period of 30 days and thereafter, shall report before the respondent police daily at 10.30 a.m., until further orders and the other conditions shall remain unaltered.

21. **The petition in Crl.M.P. (MD)No.5716 of 2022 is allowed** and one week time is granted to the petitioners/accused to comply with the conditions imposed by this Court in the order passed in Crl.O.P. (MD)No.6053 of 2022 from the date of receipt of a copy of this order.

sd/-

13/12/2022

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/12/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

TO

1 THE JUDICIAL MAGISTRATE NO.IV,
MADURAI DISTRICT.

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

<https://www.mhc.tn.gov.in/judis>



3 THE INSPECTOR OF POLICE,
SOUTH GATE POLICE STATION,
MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
CONTONMENT POLICE STATION,
TRICHY.

+1. C.C. to M/S.K.DINESH, Advocate SR.No.14792

ORDER

IN

CRL MP (MD) Nos.5294 & 5716 of 2022
IN

CRL OP (MD) No.6053 of 2022
Date :13/12/2022

SA/SSS/SAR.1/22.12.2022/6P/7C