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Crl.O.P.No.4992 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.4992 of 2023

P. Kathiravan

... Petitioner

Vs.

1.The Inspector of Police,
Central Crime Branch – II, EDF-I,
Avadi,
Chennai.
(Crime No.3 of 2022)

2.K.M. Murugan

... Respondents

PRAYER: Criminal Original Petitions filed under Section 439(2) of Cr.P.C.,
prayed to cancel the bail order passed by the learned Principal District and
Sessions Judge, Tiruvallur in Crl.M.P.No.4797 of 2022 dated 22.11.2022.

For Petitioner	: Mr. D. Ashok Kumar
For R1	: Mr. R. Vinothraja, Govt. Advocate (Criminal Side)
For R2	: Mr. V. Jeyachandran

ORDER



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This petition has been filed seeking cancellation of bail granted to the 2nd respondent / 1st accused in Crime No.2 of 2022 registered by the 1st respondent under Sections 406, 420 IPC r/w Section 120B IPC.

2. The learned Principal District and Sessions Judge, Tiruvallur, had granted bail to the 1st accused in Crl.M.P.No.4797 of 2022 by an order dated 22.11.2022. While granting bail, the conditions imposed were that the 2nd respondent should execute bond and thereafter, should appear before the 1st respondent everyday for a period of 30 days and that he should not abscond.

3. The learned counsel for the petitioner / defacto complainant seeks cancellation of that particular order by stating that both the accused had jointly cheated the defacto complainant to a sum of Rs.63,44,000/- and the learned Principal District and Sessions Judge, Tiruvallur, while granting bail had completely overlooked that particular fact and had not imposed any condition at all for grant of bail. It is also complained that the 1st accused had been instrumental in ensuring that the 2nd accused was not secured by the 1st respondent. It is also stated by the learned counsel that the defacto



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complainant had filed an application seeking transfer of investigation and an order had been passed by a learned Single Judge of this Court that investigation should be completed within a period of 45 days. It is stated that however, though notices under Section 41(A) of Cr.P.C., had been issued to the 2nd respondent. The learned counsel for the petitioner states that the 2nd respondent had not properly informed the entire facts of the case to the Investigating Agency.

4. The learned Government Advocate (Criminal Side) for the 1st respondent stated that investigation has been practically completed and that final report would be filed within a period of two or three weeks.

5. It is seen from the records that while granting bail, the learned Principal District and Sessions Judge, had issued notice to the respondent police and the Public Prosecutor had also been appeared and put forth his contentions. It is also seen that on behalf of the petitioner / defacto complainant, an intervening application had also been filed and counsel had also entered appearance.



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6. On consideration of the submissions made, the learned Principal District and Session Judge, had exercised jurisdiction and had granted bail. That order can be cancelled only when there has been any violation of conditions imposed on the 2nd respondent. This Court cannot sit over as further appellate authority and examine whether the discretion exercised by the learned Principal District and Sessions Judge, Tiruvallur, was proper or passed the order based on fairness.

7. The learned counsel for the 2nd respondent stated that a sum of Rs.51,00,000/- had been paid to the defacto complainant.

8. These are issues which have to be examined only during the course of trial. Let investigation be completed as directed by the learned Single Judge and thereafter, a better option would be for the defacto complainant to let in proper admissible evidence to ensure that the prosecution proves the case beyond reasonable doubt.

9. Observing as above, this petition for cancellation of bail stands



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dismissed.

11.12.2023

smv

To

- 1.The Principal District and Sessions Judge, Tiruvallur.
- 2.The Inspector of Police,
Central Crime Branch – II, EDF-I,
Avadi,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

C.V.KARTHIKEYAN, J.

smv



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