



Crl.O.P.No.13843 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

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THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.13843 of 2023

Shray Rattha

... Petitioner

Vs.

1. The State represented by
The Inspector of Police,
J3 Guindy Police Station.

2. R.Ragavendran

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(2) of Cr.P.C.,
pleased to cancel the bail granted to the second respondent/A2 in
Crl.M.P.No.7391 of 2023 dated 11.05.2023 on the file of the learned IX
Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.A.Ramkumar

For Respondents : Mr.S.Balaji
Government Advocate (Crl.Side)
for R1
Mr.R.Vignesh for R2



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ORDER

The petition has been filed seeking to cancel the bail granted to the second respondent/A2 in Crl..M.P.No.7391 of 2023 on the file of the learned 9th Metropolitan Magistrate, Saidapet, Chennai dated 11.05.2023.

2. Learned counsel for the petitioner/*de facto* complainant submitted that the second respondent is arrayed as A2 in this case. On the complaint given by the petitioner/defacto complainant with respect to theft of two rings and 6 diamond bangles and 2 gold chain with lockets (diamond), a case in Crime No.304 of 2023 came to be registered by the J3, Guindy Police Station, for the offence punishable under Sections 381 of IPC. During the course of investigation, the accused/R2 herein, was arrested on 04.05.2023 and while he was in custody, his father passed away, thereby, he was granted interim bail and later, he surrendered before the learned Magistrate on 09.05.2023.



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3. He also submitted that within 2 days of his surrender, the IX Metropolitan Magistrate Court has granted bail to A2 on 11.05.2023, stating that the material portion of the investigation was completed and part of the stolen jewels were recovered. He reiterated that within 7 days of arrest on 04.05.2023, A2 was granted bail and the learned Magistrate had also stated that the second accused was in judicial custody for the past 7 days. He further submitted that the fact remains is that the second accused had been on interim bail for a period of 3 days and the learned Magistrate, without application of mind, had passed such an order. Learned counsel for the petitioner further submitted that the first respondent Police have not taken any steps to take the second respondent on custody for recovering the remaining jewels and that the accused is also not complying with the condition imposed by the learned Magistrate. Thereby, he sought for cancellation of bail granted to the second respondent/accused.

4. The second respondent has filed the counter.

5. Learned counsel appearing for the second respondent submitted that even as per the prosecution, the allegation against the second respondent



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is that one Rajalakshmi, who was working as a house keeper in the house of the *de facto* complainant is stated to have stolen the jewels and had handed over it to the second petitioner, who in turn, is stated to have pledged it with the pawn broker. He also submitted that the second respondent cannot be connected to the commission of theft and he would be only be liable for the alleged offence of receiving the stolen articles. He further submitted that the enquiry by the respondent Police, the second respondent had informed about pledging of jewels, which was handed over to him by the first accused and thereby, the respondent Police have also recovered the stolen jewels from the pawn broker.

6. He further submitted that the second respondent was arrested and remanded to judicial custody on 04.05.2023 and while he was in custody, his father passed away, thereby, he was granted with interim bail and in due compliance of the interim bail, he surrendered before the learned Magistrate on 09.05.2023 and thereafter, regular bail was granted to him on 11.05.2023. The second respondent was let out on bail after furnishing sureties and he has been regularly complying with the condition and that due to his illness, he was unable to comply with the condition for a period of one



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week and it was also informed to the respondent Police. Later, the condition has been modified and the second respondent he has been complying with the modified condition. He further submitted that there is no change of circumstances warranting the cancellation of bail and the second respondent is also ready to abide by any stringent conditions that may be imposed by this Court.

7. Learned Government Advocate (Crl.Side) submitted that the allegation against the second respondent is that he had received the stolen articles from the first accused and pledged the same with the pawn broker. He further submitted that based on the confession statement given by the second respondent, the stolen jewels were recovered from the pawn broker. He also submitted that the second respondent/accused was arrested on 04.06.2023 and was granted interim bail to perform the final rites of his father and later, granted with regular bail on 11.05.2023.

8. Heard both sides and perused the materials available on record.



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9. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel on either side, this Court finds that no material warranting the cancellation of bail. Accordingly, the Criminal Original Petition seeking cancellation of bail stands dismissed.

07.09.2023

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To

1. The IX Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
J3 Guindy Police Station.
3. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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