



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.3.2023

Delivered on : 12.4.2023.

CORAM

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

Criminal Original Petition No.22056 of 2022

State : rep. by
Deputy Superintendent of Police,
Central Bureau of Investigation,
Anti-Corruption-V, CBI Head Office,
Lodhi Road, New Delhi.

Petitioner

vs.

Shri.Sanjay Jain

Respondent

Criminal Original Petition filed under Section 439(2) Cr.P.C. to cancel the bail order dated 16.8.2022 passed in CrI.M.P.No.7226 of 2022 by the Chief Judicial Magistrate, Chengalpet.

For Petitioner : Mr.K.Srinivasan, Spl. P.P. for CBI Cases

For Respondent : Mr.R.Sreedhar

ORDER

The present petition has been filed by the Central Bureau of Investigation seeking to cancel the bail granted to the respondent herein vide order dated 16.8.2022 in CrI.M.P.No.7226 of 2022 by the Chief Judicial Magistrate, Chengalpet.



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2. The factual background of the present case is as under:-

i) On 25.11.2019, a complaint from one Kalyana Kumar, came to be filed with the District Crime Branch, Tiruvallur as FIR No.35/2019 with the following allegations:-

(a) The de facto complainant Kalyana Kumar is a Builder running a firm in the name of Amma Bhagavan Construction. For developing his business, he was looking for a financial assistance from any bank to the tune of Rs.2,00,00,000/-, which, he had informed his friend one Aravind.

(b) Whiles, on 19.10.2019, the said Aravind had received a call to his mobile phone No.9959710444 from one person claiming himself as Alok Srivatsav, Law Secretary in Prime Minister's Office at New Delhi through mobile phone No.+911123012312 canvassing that he would arrange for loans from Prime Minister's Fund for which, the said Aravind had apprised him about the financial requirement of the de facto complainant and gave the mobile number of the de facto complainant (9951779579, 9866935557 and 7603933809) to him on his demand and informed the de facto complainant about such a call.



(c) On 29.10.2019, the de facto complainant had received a similar call to his mobile No.9951779579 from the mobile No.+911123012312 and the person, who called him, had assured that he could arrange for loan to the tune of Rs.2,00,00,000/- from any Nationalised Banks for which, he requires a sum of Rs.20,00,000/- as commission. Similarly, the de facto complainant had received a call from the telephone No.91-4428255051 suggesting to accept the offer made by Alok Srivatsav and give commission to him.

(d) Since the de facto complainant had not possessed such a huge money, he had arranged for payment of Rs.15,00,000/- through his friend one Ajay Mehta from Mumbai on 29.10.2019, which was given to one Babu, who introduced himself through mobile No.9892735859 and the remaining amount of Rs.5,00,000/- was arranged through another friend Devkar at Mumbai on 30.10.2019 and paid the same to one Baba, who introduced through mobile Nos.9809807774 and 9169169184. After getting the entire commission amount of Rs.20,00,000/-, the said person got the bank account details of the de facto complainant and assured that the loan amount would be credited to his account within a period of two weeks.



(e) Finding that no amount was credited to his account even after lapse of about one month, the de facto complainant had attempted to contact the said person through his mobile phone, however, he found that the mobile phone of the accused was switched off. Hence, the present complaint.

ii) The complaint was registered in Crime No.35/2019 on the file of the District Crime Branch, Tiruvallur against the accused Alok Srivatsav.

iii) As an outcome of the investigation, the present petitioner was arrested on 3.2.2020 by the police officials of the Crime Branch, Tiruvallur from his residence and remanded to judicial custody. Later, the petitioner was produced before the Chief Metropolitan Magistrate, Tis Hazari Courts, Delhi and transit remand was claimed by the Tamil Nadu Police to produce him before the court concerned at Tiruvallur. Similarly, the petitioner had applied for transit bail before the same court. The said court, while rejecting the plea of the petitioner, granted 3 days transit remand. Subsequently, the petitioner had filed bail application seeking transit bail before the High Court of Delhi in Application No.344 of 2020 and that on 4.2.2020, transit bail was accorded.



iv) Subsequently, the petitioner had filed W.P.(Crl.) No.64 of 2020 before the Apex Court seeking to transfer the case in Crime No.35 of 2019 registered by DCB, Tiruvallur to the Punjabi Bagh Police Station or to any other Police Station at Delhi. The Apex Court had directed for transfer of investigation to CBI by order dated 3.3.2020.

v) In compliance of the directions of the Apex Court, the case in Crime No.35 of 2019 was transferred from the file of the DCB, Tiruvallur to CBI and the CBI, Anti-Corruption-V registered an FIR in Cr.No.RC 2232020A0001 dated 27.5.2020 under Section 420 IPC.

vi) The petitioner had filed an Application before the Sessions Court, Tiruvallur seeking anticipatory bail, but, the same was dismissed by the said court by order dated 21.2.2020.

vii) Subsequently, the CBI had issued notice to the petitioner under Section 41-A Cr.P.C. to appear for the investigation and on the same day, he was arrested.

viii) The petitioner had moved bail application before the the Chief Judicial Magistrate, Chengalpet in Crl.M.P.No.7226 of 2022, which came to be ordered on 16.8.2022 and thereupon, the petitioner was released on bail. Seeking to cancel the said order, the present petition has been filed by CBI.



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3. Submissions of the learned Special Public Prosecutor

Mr.K.Srinivasan appearing counsel for the petitioner are as under:-

i) The case is having high stake involving impersonation of the highest office (PMO) of the country and the investigation has revealed that the accused had played a very crucial role in transfer of extorted money to the main accused, however, he had not revealed the details about the person through whom, he had handed over the money to the main accused.

ii) There is high possibility of the accused involving in similar offences in connivance with the habitual offender Sukesh Chandrashekhar.

iii) In the event of the bail being not cancelled, there is every possibility of the petitioner tampering with the evidence and absconding from the clutches of law.

iv) In order to protect the fair investigation and trial to secure justice, the bail granted to the petitioner is required to be cancelled.

4. The submissions of the learned counsel Mr.R.Sreedhar appearing for the respondent are as under:-

i) There is no evidence to prove the conspiracy alleged against



the petitioner and the petitioner has not been arrayed as accused in the FIR.

ii) The complaint was lodged in the year 2019 in Crime No.35 of 2019 on the file of the District Crime Branch, Tiruvallur and on a Writ Petition filed by the petitioner seeking transfer of investigating agency, the Apex Court had directed for transfer of the case to CBI and the petitioner had co-operated fully though he was subjected to frequent enquiry in the office of the CBI, Delhi.

iii) The petitioner was enlarged on bail by order dated 16.8.2022 in CrI.M.P.No.7226 of 2022 with a condition that he had to appear before the CBI, New Delhi daily at 11.00 am until further orders and on his satisfying such a condition for one month, it was relaxed to one of appearing on every Monday at 11.00 am vide an order dated 27.9.2022 in CrI.M.P.No.9159 of 2022 and further relaxed to one of appearing on the first working day of every month at 11.00 am vide order dated 15.12.2022 in CrI.M.P.No.11360 of 2022.

iv) There is no allegation on the part of the respondent that the petitioner had failed to comply with the condition imposed by the court while granting bail to him.

v) Charge sheet has been filed by the CBI on 6.10.2022 and



thereby, the relief sought for in the petition to cancel the bail has become redundant. The investigation has been present petition has been filed by the CBI seeking to cancel the bail

vi) The petitioner is a law abiding citizen having strong roots in the society and he will not run away. Further, he undertakes to duly intimate the investigating officer of CBI, New Delhi his whereabouts and the contact details when he intends to perform any travel to abroad during the pendency of trial and thus, the bail granted to the petitioner need not be disturbed and the petition seeking cancellation of petition may be dismissed.

5. Heard the learned Special Public Prosecutor appearing for the petitioner-CBI and the learned counsel appearing for the respondent.

6. The point to be decided is whether a case is made out by the petitioner-CBI for cancelling the bail granted to the respondent.

7. The complaint in question came to be lodged on 25.11.2019 against one Alok Srivatsav alone on the file of the District Crime Branch, Tiruvallur and when the petitioner was implicated in the case



and arrested by them, he moved the Apex Court for change of investigating authority and thereupon, the case was transferred to the CBI as directed by the Apex Court by its order dated 3.3.2020 and the petitioner was arrested on 25.7.2022 about 2-1/2 years thereafter. Thereupon, the petitioner got **bail from** the jurisdictional court by order dated **16.8.2022** and has been complying with the condition imposed in the order granting bail to him and considering the same, the condition has also been relaxed twice. The latest order granting relaxation was passed by the jurisdictional court on **15.12.2022**.

8. In this scenario, the petitioner-CBI has come up with the present petition seeking cancellation of bail granted to the respondent herein. Obviously, the criminal proceedings pending against the petitioner is having a high stake involving impersonation of the highest office (PMO) of the country, requiring a thorough investigation without any compromise. However, equally, personal liberty of the petitioner guaranteed by the statute needs to be assured. Time and again, it has been reiterated by the Apex Court and various other High Courts that cancellation of bail has to be dealt on a different footing in comparison to a proceeding for grant of bail and it is necessary that cogent and



overwhelming reasons are present for cancellation of bail.

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9. In **Deepak Yadav vs. State of Uttar Pradesh and another**

(2022) 8 SCC 559, a Full Bench of the Apex Court has held as under:-

"31. This Court has reiterated in several instances that 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 trial. Having said that, in case of cancellation of bail, very cogent and overwhelming circumstances are necessary for an order directing cancellation of bail (which was already granted).

32. A two-Judge Bench of this Court in *Dolat Ram v. State of Haryana* (1995) 1 SCC 349 laid down the grounds for cancellation of bail which are:

- (i) interference or attempt to interfere with the due course of administration of justice;*
- (ii) evasion or attempt to evade the due course of*



justice;

(iii) abuse of the concession granted to the accused

in any manner;

(iv) possibility of the accused absconding;

(v) likelihood of/actual misuse of bail;

(vi) likelihood of the accused tampering with the evidence or threatening witnesses."

10. On perusal of the materials available on record, this court finds that there is no supervening circumstance available in the case on hand to cancel the bail granted to the respondent herein. No ground has been made out by the CBI warranting this court to interfere with the order granting bail to the respondent herein. Moreover, it is brought to the notice of this court that charge sheet has also been filed by the CBI on 6.10.2022. The respondent also undertakes to duly intimate the CBI, his whereabouts and the contact details when he intends to travel abroad. Considering the totality of the circumstances, this court is of the view that the order dated 16.8.2022 passed by the Chief Judicial Magistrate, Chengalpet in CrI.M.P.No.7226 of 2022 granting bail to the respondent herein does



not require any interference and the present petition filed by the CBI seeking cancellation of bail is liable to be dismissed.

11. In the result, the Criminal Original Petition is dismissed. However, it is made clear that the respondent herein shall duly inform the investigating officer of CBI, New Delhi, his whereabouts and contact details whenever he intends to travel abroad till the disposal of the present criminal proceedings pending before the trial Court.

12.4.2023.

Index: Yes/No.
Internet: Yes/No.
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To

1. Chief Judicial Magistrate,
Chengalpet.
2. Deputy Superintendent of Police,
Central Bureau of Investigation,
Anti-Corruption-V, CBI Head Office,
Lodhi Road, New Delhi.
3. The Special Public Prosecutor
for CBI Cases
High Court, Madras.



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A.D.JAGADISH CHANDIRA, J.

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P.D. ORDER IN
Crl. O.P. No.22056 of 2022

12.4.2023.