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CrI.O.P.No.21509 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

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

CrI.O.P.No.21509 of 2023

D. Sridhar
Complainant

... Petitioner / Defacto

Vs.

1.Raman Muthaiah @ Muthaiah

... 1st Respondent / Accused

2.The State Rep.by
The Inspector of Police,
EDF-1, Team -I, Central Crime Branch,
Egmore, Chennai.
(Crime No.212 of 2020)

... 2nd Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 439(2) and 482 Cr.P.C., prayed to cancel the bail granted to the 1st respondent / Accused by setting aside the order dated 07.08.2023 passed in CrI.M.P.No.33077 of 2023 in C.C.No.1794 of 2023 on the file of the Metropolitan Magistrate, For Exclusive Trial of CCB cases (Relating to Cheating cases in Chennai), and CBCID, Metro Cases, Egmore, Chennai – 08.

For Petitioner : Mr.I.Subramanian, Senior Counsel

For R1 : Mr. L. Vinoth

For R2 : Mr.R. Vinothraja
Govt. Advocate (CrI. Side)



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ORDER

This petition has been filed by the defacto complainant seeking cancellation of bail granted to the 1st respondent, who was the accused in Crime No.212 of 2020, registered under Sections 406, 420 IPC. The bail had been granted to the 1st respondent by an order of the learned Metropolitan Magistrate, For Exclusive Trial of CCB cases (Relating to Cheating cases in Chennai), and CBCID, Metro Cases, Egmore, Chennai, in Crl.M.P.No.33077 of 2023 by order dated 07.08.2023.

2.Even before examining the grounds on which the bail granted by the learned Metropolitan Magistrate, is sought to be cancelled, there are two primary issues, which will have to be addressed by this Court, since they had been raised by the learned counsel for the 1st respondent.

3.The first issue is that the petition seeking cancellation of bail has been filed without giving any provision of law and raising a doubt whether it was under Section 437(5) or 439(2) Cr.P.C. Let me straight away point out that the said submission by the learned counsel had been done without



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examining the records available in the Court. When any application is filed in the High Court, it is necessary on the part of every counsel to file what is calling a coding sheet which contains the details about the names of the petitioner, respondent, and the name of the counsels and also the Act and the provision of law involved in the case. In that particular coding sheet, it had been very categorically and specifically stated that this petition had been filed under Section 439(2) Cr.P.C. Therefore, that particular submission made by the learned counsel for the 1st respondent is rejected.

4.The second submission made by the learned counsel for the 1st respondent is that one of the counsels on record Mr.Prakash Goklaney had been served with notice suspending him from practice for a period of one year by an order dated 18.08.2023 passed by the Disciplinary Committee of Bar Council of India in Rev (PT) No.5 of 2020. It had therefore contended that the entire application seeking cancellation of bail cannot be maintained before this Court by the learned counsels on record.

5.Again a perusal of the records show that, he is not only counsel on record, but there are three other counsels namely, Mr.Velu Srinivasan, Mr.



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S. Sivalinga Kesavan and Mr. S.Manikkasiva Subramani. Arguments had been advanced by Mr.I.Subramanian, learned Senior Counsel. The petition had not signed by Mr.Prakash Goklaney, but rather on verification from the counsels, it is seen that it had been signed in each page by Mr.S. Manikkasiva Subramani. The petition had been presented before the Court on 28.08.2023. No doubt on 18.08.2023, Mr. Prakash Goklaney had suffered an order of suspension from practice, but he is not the only counsel on record, but, as stated, the other counsel Mr.S.Manikkasiva Subramnai had signed the petition for cancellation of bail. Therefore, I would also reject this particular contention of the learned counsel for the 1st respondent.

6.Coming now to the merits of the case, it is contended that the 1st respondent had filed applications seeking bail before this Court. The first application had been filed in Crl.O.P.No.32379 of 2022 and by an order dated 04.01.2023, the application seeking bail had been dismissed. The second application had been filed in Crl.O.P.No.3083 of 2023 and by an order dated 14.02.2023, the petition seeking bail was dismissed. The third application was filed in Crl.O.P.No.6712 of 2023 and by an order dated 05.04.2023, the petition seeking bail was dismissed. Thereafter, the 1st



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respondent had also filed an application seeking to quash the FIR under Section 482 Cr.P.C., and that was in Crl.O.P.No.11563 of 2021 and that came to be dismissed by an order dated 28.04.2023. The fourth application seeking bail was filed in Crl.O.P.No.10903 of 2023 and that was dismissed by an order dated 06.07.2023. All these orders had been passed by the High Court dismissing the application seeking bail by the petitioner herein.

7.The 2nd respondent / Investigating Officer had completed the investigation and had also filed the final report and the same had been taken cognizance by the learned Metropolitan Magistrate as C.C.No.1794 of 2023. This particular fact, which is a significant change in circumstance namely, that investigation has been completed and that the Metropolitan Magistrate had also taken cognizance of the final report had actually been observed by a learned Single Judge while dismissing Crl.O.P.No.10903 of 2023 on 06.07.2023. In the course of the order, the learned Single Judge had specifically stated about taking of cognizance of the final report and also expressed his view on whether in those circumstances bail could be granted to the 1st respondent or not. Paragraph No.6 of that particular order gives the reasons of the learned Single Judge, as to why he was of the opinion that application for bail should be rejected and dismissed.



“6.In an earlier occasion, this Court elaborately discussed with the contention of petitioner and now even though the charges are framed, the petitioner is directed to co-operate with the trial proceedings. Furthermore, on seeing the facts, it would reveal that the petitioner has realized the amount, which was given by the defacto complainant and invested the same to some other company for some other purpose and committed fraud. Considering the facts and circumstances of the case and the submissions made by both counsel and also considering gravity of offence committed by the petitioner, and considering the fact that if he is released on bail, he may abscond by leaving the India, there is possibility of tampering the witnesses and hampering the investigation and the fact that there is no change of circumstances, this Court is not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed. However, since the petitioner is in judicial custody for more than 7 months, the trial Court is directed to complete the trial and dispose the case as early as possible.”

8.It had been very clearly pointed out by the learned Single Judge that though charges had been framed the accused must be directed to co-



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operate during the trial proceedings. Thereafter, the further circumstance as to why the bail should be rejected had been discussed and it had been specifically pointed out that considering the gravity of the offence and considering that if he is released on bail, he may abscond by leaving this Country and there is a possibility of tampering of witnesses and hampering the investigation bail had been rejected.

9. At this juncture, I must also point out one further representation made by the learned counsel for the 1st respondent about the observation of the learned Single Judge that there is a possibility of the 1st respondent absconding the shores of this country. It is stated that this can never arise since the 1st respondent had deposited his passport before the Metropolitan Magistrate. That may be a fact and that is a fact which cannot be disputed. But it is not the only consideration examined by the learned Single Judge while dismissing the application seeking bail. He had also examined the possibility of the witnesses being tampered. Particularly when the Calender Case is now in the process of commencement of trial, witness protection is of utmost importance and every witness must be provided with a conducive atmosphere to depose the facts as known to the said witness freely and



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voluntarily. There can never be a shadow of influence hanging over the said witness and no witness can be permitted to depose in the Court of law with fear or with the thought that there is a shadow supervising and watching every word he or she states. The provision of witness protection is of utmost importance in any trial process.

10.After all those four applications had been dismissed, the 1st respondent then filed application in Crl.M.P.No.33077 of 2023 before the Metropolitan Magistrate Court seeking bail.

11.The learned counsel for the 1st respondent justified that particular fact by stating that when the application for bail was filed before the Metropolitan Magistrate, the 1st respondent had already been in incarceration for 280 days and therefore stated that the 1st respondent would not gain anything by suppressing any fact or material fact before the said Court. It had been stated that his plight was explained by him to the legal aid counsel, who prepared the application seeking bail and the learned Metropolitan Magistrate on consideration of the facts and circumstances had granted bail.



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12.This Court on perusing the order of the bail and hearing the submissions that the bail had been dismissed on four successive occasions by this Court, sought a report from the learned Metropolitan Magistrate and also directed that copies of all material papers including the petition seeking bail, the counter filed by the Investigating Officer and the orders passed by the Metropolitan Magistrate must be forwarded to this Court. The said records had been forwarded in two separate volumes. Volume – I, contains the actual application, counter and the order granting bail. Volume – II, contains the final report in C.C.No.1794 of 2023 and supporting documents filed by the prosecution at the time when the final report was filed.

13.A reading of the petition seeking bail is quite revealing. The petition is bereft of material facts. There is no mention about the fact that the 1st respondent had applied for bail before the High Court and that the High Court had dismissed the bail petitions on four separate occasions.

14.This particular fact is stressed by the learned Senior Counsel on behalf of the petitioner, who pointed out that the learned Metropolitan Magistrate being subordinate to the High Court cannot overrule the orders of



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the High Court and grant bail and ignore four successive orders dismissing the bail application by the High Court.

15.The records also reveal that, in the counter filed by the prosecution raising objections to grant of bail, it had been very specifically stated that earlier petitions in Crl.M.P.No.38989 of 2022 before the same Metropolitan Magistrate and in Crl.M.P.No.25003 of 2022 before the Principal Sessions Judge and in Crl.O.P.No. 32379 of 2022, Crl.O.P.No.3083 of 2023, Crl.O.P.No.6712 of 2023 and Crl.O.P.No.10903 of 2023 all before the High Court petitions seeking bail had been dismissed. This fact was brought to the knowledge of the learned Metropolitan Magistrate.

16.The issue whether the learned Metropolitan Magistrate can therefore passed the order exercising discretion to grant bail has to be addressed. There must be a rule of law, which must be followed. The learned Metropolitan Magistrate should have erred on the side of caution before exercising discretion to grant bail in the teeth of the orders of the superior Courts particularly, the Principal Sessions Court and the High Court (on four occasions).



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17.The issue whether suppression of a material fact by the 1st respondent would amount to fraud had been addressed by the Hon'ble Supreme Court in ***S.P.Chengalvaraya Naidu (Dead) By LRs. Vs. Jagannath (Dead) By LRs*** and others reported in ***(1994) 1 SCC 1***. The Hon'ble Supreme Court held as follows:

“6. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. A litigant, who approaches the Court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the court as well as on the opposite party.”

(emphasis supplied)

18.The Hon'ble Supreme Court had very clearly mentioned that suppression of material fact in any judicial proceedings is fraud and fraud vitiates every solemn proceeding. The order of the learned Metropolitan Magistrate is tainted with overlooking the earlier orders of this Court and the



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learned Metropolitan Magistrate had probably been misled by the facts stated in the petition seeking bail, wherein there is absolutely no mention about the 1st respondent having sought bail before the Principal Sessions Court and before the High Court.

19.The learned counsel for the 1st respondent, however justified the act of the 1st respondent in not bringing to the notice of the learned Metropolitan Magistrate, the fact that he had applied bail and had suffered adverse orders at least on six separate occasions.

20.In this connection, the learned counsel relied on paragraph Nos.9 and 11 of the judgment of the Hon'ble Supreme Court reported in **(1996) 4 SCC 693, Kashmira Singh Vs. Duman Singh**. The relevant paragraphs are as follows:

“9. In the main, two grounds are put forward for cancellation of the bail, namely, (i) that the accused was guilty of suppression of the material fact that his co-accused's bail application was rejected twice and (ii) that there was only one case and not a cross-case against the



complainant's party as was assumed while granting bail. In our view, neither of the two grounds would justify cancellation of bail.

11. The ground regarding suppression of facts is still weaker. In the first place, knowledge of two bail applications of the co-accused having been rejected has been imputed to the accused without valid basis. Secondly, the fact that the co-accused had applied for bail and had later not pressed the application, had been disclosed since it was known to the accused. That was sufficient indication that the co-accused had not been enlarged on bail. His decision not to press for bail would be indicative of the fact that the court was disinclined to grant bail or, he did not see sufficient grounds to press the bail application. Be that as it may, the fact remains that the court was aware that the co-accused was not granted bail. That was sufficient for the court when it considered the accused's application for bail. Besides, it was the prosecution/complainant's duty to bring to the court's notice that two applications of the co-accused for bail were rejected. If the accused did not mention it, nothing prevented the opposite side from placing it on record. It seems to be an omission on the part of the prosecution/complainant's side but, for that it would be wrong to charge them with having suppressed facts. So also



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for the accused, more particularly because, there is no positive evidence to attribute knowledge to the accused. Hence we think this ground is unsustainable.”

21.The issue before the Hon'ble Supreme Court, in that particular case, was about suppression of a material fact namely, about the fact that the co-accused had filed an application seeking bail and that was rejected on two separate occasions. There was another aspect about there being only one case and not a counter case against the complainant's party as was assumed while granting bail. The Hon'ble Supreme Court was of the opinion that both those factors could not be a ground for cancellation of bail.

22.The distinguishing factors in this particular case is not rejection of bail of the co-accused, but of the 1st respondent himself. It is the primary duty of the 1st respondent to come to Court with clean hands. There was an obligation on the part of the 1st respondent to disclose all facts known to him. The fact that his bail petitions had been dismissed is a fact to the knowledge of the 1st respondent. If he had failed to state that fact before the learned Metropolitan Magistrate, then, he had deliberately suppressed that particular fact and had attempted to sway the mind of the judicial officer.



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23. The learned counsel then relied on paragraph Nos.16 and 18 of the judgment of the Hon'ble Supreme Court reported in **(2018) 12 SCC 30, *Madan Mohan Vs. State of Rajasthan and Others***. The relevant paragraphs are as follows:

“16. No superior court in hierarchical jurisdiction can issue such direction/mandamus to any subordinate court commanding them to pass a particular order on any application filed by any party. The judicial independence of every court in passing the orders in cases is well settled. It cannot be interfered with by any court including superior court.

18. It is the sole discretion of the Sessions Judge to find out while hearing the bail application as to whether any case on facts is made out for grant of bail by the accused or not. If made out then to grant the bail and if not made out, to reject the bail. In either case i.e. to grant or reject, the Sessions Judge has to apply his independent judicial mind and accordingly pass appropriate reasoned order keeping in view the facts involved in the case and the legal principles applicable for grant/rejection of the bail. In this case, the Single Judge failed to keep in his mind this legal principle.



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24.The Hon'ble Supreme Court, in this particular case was examining an order setting aside issuance of non-bailable arrest warrants by the High Court in a Revision Petition while summoning the accused persons without impleading / hearing the defacto complainant. The direction was issued by the High Court, in that case, to the accused persons to surrender before the trial Court and move an application for regular bail, on the same day on which it is filed. The Hon'ble Supreme Court, in the face of those directions issued by the High Court, had stated that no such directions can be issued to any judicial Court as to the manner in which that particular Court should discharge their function. It was also stated that it was the sole discretion of the Sessions Judge to determine whether bail should be granted or to be rejected.

25.In the instant case, the learned Metropolitan Magistrate should have considered the weight of four successive orders of the High Court dismissing the bail petitions of the 1st respondent herein. There was no direction issued to the Metropolitan Magistrate in this case, but this Court is today hearing an order granting bail in the teeth of successive orders dismissing bail of the 1st respondent by the High Court.



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26.The learned counsel then relied on paragraph No.26 of the judgment of the Hon'ble Supreme Court reported in **(2014) 10 SCC 754, Abdul Basit Alias Raju and Others Vs. Mohd. Abdul Kadir Chaudhary and Another**. The relevant paragraph is as follows:

“26. In the instant case, the order for bail in the bail application preferred by the accused-petitioners herein finally disposes of the issue in consideration and grants relief of bail to the applicants therein. Since, no express provision for review of order granting bail exists under the Code, the High Court becomes functus officio and Section 362 of the Code applies herein barring the review of judgment and order of the Court granting bail to the petitioner-accused. Even though the cancellation of bail rides on the satisfaction and discretion of the court under Section 439(2) of the Code, it does not vest the power of review in the court which granted bail. Even in the light of fact of misrepresentation by the petitioner-accused during the grant of bail, the High Court could not have entertained the respondent/informant's prayer by sitting in review of its judgment by entertaining miscellaneous petition.”



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27.The Hon'ble Supreme Court had examined the scope of three separate provisions in Criminal Procedure Code, 1973 namely, Sections 439(2), 437(5) and 362 of Cr.P.C. It was also observed that though Courts granting bail can cancel the bail owing to misconduct of the accused or owing to new adverse facts having surfaced, but no such orders can be passed under Section 362 Cr.P.C. Any order passed under Section 362 Cr.P.C., would be an order reviewing its own order and it was held not proper and as a matter of fact, illegal.

28.The learned counsel relied on this particular judgment on the misconception that no provision of law had been stated in the application seeking cancellation of bail. But as had been pointed out, in the coding sheet, very specifically, the petitioner had stated that the petition has been filed under Section 439(2) Cr.P.C. It cannot be either denied or disputed that Section 439 (2) Cr.P.C., is the provision which gives the power to the High Court to cancel the bail, if situation warrants and to interfere with order granting bail. This particular judgment, therefore would take the 1st respondent nowhere.



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29.The learned counsel then relied on the judgment of the Hon'ble Supreme Court reported in **(1995) 1 SCC 349, Dolat Ram and Others Vs. State of Haryana**, wherein, again the Hon'ble Supreme Court had examined the factors to be considered while examining petitions under Section 439(2) and 437(5) of Cr.P.C. It had been observed that rejection of bail in a non-bailable offence stands on a different footing and factors to be considered for rejecting petition seeking bail are different from factors to be considered while cancelling the bail already granted. There can be no dispute over the dictum as laid by the Hon'ble Supreme Court.

30.In the instant case, the main thrust of the arguments is that 1st respondent herein in his petition had deliberately suppressed the fact that he had filed earlier applications seeking bail before the High Court and had suffered orders of dismissal on four successive occasions. That is a material fact. That is a fact, which should have been stated in the first instance by the 1st respondent herein. Having failed to do so, he cannot now turn around and point an accusing hand on either the petition which has been filed and complaining that there is no provision of law, when the provision of law had



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been given or pointing out that the first advocate on record had been suspended by the Bar Council of India and therefore, the entire petition seeking cancellation of bail has to be rejected and has no legs to stand.

31.The learned counsel then relied on paragraph Nos.12, 14 and 15 of the judgment of the Hon'ble Supreme Court reported in **(2018) 16 SCC 511, X... Vs. State of Telangana and Another**. The relevant paragraphs are as follows:

12. In Neeru Yadav [Neeru Yadav v. State of U.P., (2016) 15 SCC 422 : (2016) 4 SCC (Cri) 647] , applying the same principle, this Court held that : (SCC p. 428, para 11)

“11. It is a well-settled principle of law that while dealing with an application for grant of bail, it is the duty of the Court to take into consideration certain factors and they basically are : (i) the nature of accusation and the severity of punishment in cases of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witnesses for apprehension of threat to the



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complainant, and (iii) prima facie satisfaction of the Court in support of the charge.”

14. In a consistent line of precedent this Court has emphasised the distinction between the rejection of bail in a non-bailable case at the initial stage and the cancellation of bail after it has been granted. In adverting to the distinction, a Bench of two learned Judges of this Court in Dolat Ram v. State of Haryana [Dolat Ram v. State of Haryana, (1995) 1 SCC 349 : 1995 SCC (Cri) 237] observed that : (SCC pp. 350-51, para 4)

“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



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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.”

15. These principles have been reiterated by another two-Judge Bench decision in CBI v. Subramani Gopalakrishnan [CBI v. Subramani Gopalakrishnan, (2011) 5 SCC 296 : (2011) 2 SCC (Cri) 618] and more recently in Dataram Singh v. State of U.P. [Dataram Singh v. State of U.P., (2018) 3 SCC 22 : (2018) 1 SCC (Cri) 675 : (2018) 2 Scale 285] : (Subramani case [CBI v. Subramani Gopalakrishnan, (2011) 5 SCC 296 : (2011) 2 SCC (Cri) 618] , SCC pp. 303-04, para 23)

“23. It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the



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grounds for cancellation of bail 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 concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, 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.”

32.Once again, the Hon'ble Supreme Court in paragraph No.14 had taken recourse to the principles as laid down in ***Dolat Ram*** referred *supra* and had also culled out paragraph No.4 which had already been extracted *supra*. It had also been pointed out that the principle as stated in the ***Dolat Ram*** had been again reiterated in ***CBI Vs. Subramani Gopalakrishnan, (2011) 5 SCC 296*** and in ***Dataram Singh v. State of U.P., (2018) 3 SCC***



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22. The relevant paragraph No.23 had been extracted. Once again the aspect is about the yardsticks between the cancellation of bail as against the order granting bail.

33.In the instant case, the petitioner is before this Court under Section 439 (2) Cr.P.C., seeking cancellation of grant of bail by the learned Metropolitan Magistrate. The fundamental ground and primary ground raised is suppression of material fact and as observed in ***S.P.Chengalvaraya Naidu (Dead) By LRs. Vs. Jagannath (Dead) By LRs and others*** reported in ***(1994) 1 SCC 1***, suppression of a material fact is fraud played on Court.

34.The learned counsel for the 1st respondent relied on the judgment of the Hon'ble Supreme Court reported in ***2002 1 SCC 649, Harjeet Singh Alias Seeta Vs. State of Punjab and Another***, wherein, it had been stated that when a Single Judge of the Court had granted order rejecting bail, proprietary requires that subsequent matters should be posted before the learned Single Judge.

35.In this connection, it must be pointed out that the Hon'ble Chief



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Justice is the Master of the Roster and as Master of the Roster had assigned the jurisdiction of grant or cancellation of bail before this Court. This Court is not examining whether bail could be granted to the petitioner herein. Every application seeking bail, if dismissed once, is listed before the same Single Judge unless the learned Single Judge is sitting in Madurai Bench. In that case, it is listed before the Judge, who holds the Roster.

36.An application seeking cancellation of bail stands on a different footing. It examines the order of the learned Metropolitan Magistrate and whether the learned Metropolitan Magistrate had examined the earlier orders of dismissal of the High Court in four separate occasions. As a matter of fact, reliance of this particular order by the learned counsel for the 1st respondent is an indirect threat to the independence of this Court and has been cited only to somehow force this Court to withdraw by placing a doubt in the minds of this Court about the propriety of hearing this application.

37.There is no doubt at all, since cancellation of any bail granted by a Magistrate has to lie only before this Court. This Court is not hearing another application seeking bail, when the earlier learned Single Judge is sitting. That is not the issue. That is not the application before this Court. The



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conduct of the 1st respondent is exposed, going to any extent in trying to defraud and play fraud on the judicial system.

38.The learned counsel for the 1st respondent then relied on the paragraph No.3 and 6 of the order of the Hon'ble Supreme Court in ***SLP (Crl.) No.15585 of 2023, Rajpal Vs. State of Rajasthan***, wherein, the Hon'ble Supreme Court had stated that all applications seeking bail with respect to same FIR should be listed before the same Court. The relevant paragraphs are as follows:

3. In view of the grant of permission to withdraw the special leave petition, we do not think it necessary to delve into the matter any further. However, we have to reiterate the concern of this Court on the lethargy in following the earlier orders in the matter of dealing with bail applications arising out of the same FIR to avoid conflicting decisions. We shall not be understood to have said that at all circumstances co-accused in such cases are invariably entitled to parity and that such entitlement is certainly dependent on various relevant facts and factors.

6.Now, taking note of the fact that such



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situations are occurring in other High Courts as well, we are of the view that the Registrar (Judicial) of the Registry of this Court be directed to communicate this order along with a copy of the order dated 31.07.2023 in SLP (Crl.) No.7203 of 2023 to the Registrar (Judicial) of all the High Courts. On their receipt, they shall place the orders before the Hon'ble Chief Justice of the respective High Courts.

39. There cannot be any complaint of the Madras High Court ever not following directions of the Hon'ble Supreme Court. It has never been heard of and had never been done in the past more than 150 years of this Court. It can be proudly stated that the main attempt by the learned counsel for the 1st respondent can be ignored by this Court as a sign of desperation to cover up deliberate suppression of material fact before the learned Metropolitan Magistrate.

40. The learned counsel for the 1st respondent then cast a final dice by stating that the 1st respondent can be put on terms and that he could be directed to deposit amounts to show his bonafide.

41. But that is not in issue here. If this Court were to enter into such



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discussion and to grant bail, then this Court would be violating the directions of the Hon'ble Supreme Court, when another learned Single Judge had dismissed an earlier bail petition.

42. Therefore, for all these reasons, I am not impressed with the arguments advanced by the learned counsel for the 1st respondent. They are not legally sustainable. They are factually wrong. They are stated to mislead this Court to pass a wrong order. This Criminal Miscellaneous Petition stands allowed. The 1st respondent is directed to surrender before the Metropolitan Magistrate for Exclusive Trial of CCB cases (Relating to Cheating cases in Chennai), and CBCID, Metro Cases, Egmore, Chennai, within a period of ten days from the date on which this order copy is uploaded in the website of this Court, failing which the 2nd respondent is directed to take the 1st respondent into custody without awaiting for any further directions from this Court.

20.12.2023

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Index : Yes / No
Neutral Citation : Yes / No
Speaking order : Yes / No



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To

1. The Metropolitan Magistrate For Exclusive Trial of CCB cases (Relating to Cheating cases in Chennai), and CBCID, Metro Cases, Egmore, Chennai.
2. The Inspector of Police,
EDF-1, Team -I, Central Crime Branch,
Egmore, Chennai.
3. The Public Prosecutor,
High Court of Madras.



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