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Crl.O.P.No.22073 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22073 of 2023

and

Crl.M.P.No.15310 of 2023

K.M.Musthafa

... Petitioner

Vs.

1. State Rep by,
The Inspector of Police,
Central Crime Branch Team -I,
Chennai.
Crime No.170 of 2021.

2. F.Benjamin Arokyaraj

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 12.06.2023 passed in Crl.M.P.No.19283 of 2023 on the file of the learned Metropolitan Magistrate for Exclusive Trial of CCB & CBCID Metro Cases, Chennai.

For Petitioner	: Mr. V.S.Senthilkumar
For R1	: Mr. Leonard Arul Joseph Selvam Government Advocate (Crl. Side)
For R2	: Mr. R.Shasi



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ORDER

Petitioner herein, who is a sole accused in C.C.No.4410 of 2023 on the file of the learned Special Court for CCB Cases, Egmore, has filed this petition, being aggrieved by the order passed by the trial Court cancelling the bail granted on the contention that, he had failed to comply with the bail conditions.

2. According to the petitioner, on the complaint given by one Benjamin Arokyaraj, he is arrayed as accused and the case is pending in C.C.No.1410 of 2021. Petitioner was granted bail based on the memorandum of understanding between the relatives of the accused and the the defacto complainant. Alleging that, terms of the memorandum of understanding was not complied, defacto complainant stated to have filed application for cancellation of bail granted to the petitioner. The trial Court in Crl.M.P.No.7175 of 2021 had cancelled the bail to the petitioner.



3. The contention of the petitioner is that, while cancelling the bail, petitioner was not afforded opportunity. If he would have given opportunity, he would have explained why and how the terms of Memorandum of Understanding could not be complied by him.

4. The learned counsel for the defacto complainant submitted that, summons were served to the petitioner before cancelling the bail, but he did not responded to that, he was absent on the hearing date and there was no representation on his behalf and therefore, recording the same, on the hearing date ie., on 02.06.2023, petition was adjourned for orders on 07.06.2023 and later, order was passed on 12.06.2023.

5. The status report indicates that, on the first hearing date, after service of notice to the accused, the trial Court has recorded his absence and proceeded with considering the application for cancellation of bail. A fair opportunity ought to be given before passing the impugned order, since it touches upon the personal liberty of the petitioner. In this case, that opportunity was not given. Thus, the order passed by the trial Court in Crl.M.P.No.19283 of 2023 cancelling the bail granted stands quashed and



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the matter is remanded back to the trial Court for re-consideration. The trial Court shall consider the petition for cancellation of bail filed in Crl.M.P.No.19283 of 2023 afresh and decide the matter after giving every opportunity to the petitioner herein. The petitioner shall not take undue advantage of the order and delay the disposal of the above said case.

6. With the above observations and directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

27.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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Dr.G.JAYACHANDRAN,J.

Sma

To:

1. The Inspector of Police,
Central Crime Branch Team -I,
Chennai.
2. The Public Prosecutor,
Madras High Court.

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