



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) No.797 of 2023

Panchavarnam

... Petitioner/De-facto complainant

vs.

1.State Rep. by
The Inspector of Police,
Central Crime Branch,
Madurai City.
Crime No.12 of 2022

2.Sri Pugal Indira

3.Renuka

... Respondents

PRAYER : This Criminal Original Petition has been filed under Section 439(2) of Cr.P.C., to cancel the bail granted to the respondents 2 and 3/A1 and A2 herein in Crl.M.P.(MD)No.2389 of 2022 on the file of the learned Principal Sessions Court, Madurai dated 09.06.2022 and commit them to the judicial custody as per Section 439(2) of Cr.P.C.

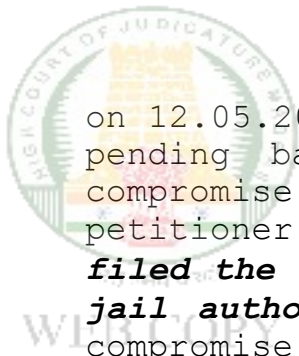
For Petitioner : Mr.K.Suyambulinga Bharathi, Advocate
for Mr.S.Poornachandran, Advocate
For R1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. Side)
For R2,R3 : No Appearance

ORDER

This Criminal Original Petition has been filed to cancel the bail granted to the respondents 2 and 3/A1 and A2 herein in Crl.M.P. (MD)No.2389 of 2022 on the file of the learned Principal Sessions Court, Madurai dated 09.06.2022

2.The case of the prosecution is that the petitioner paid a sum of Rs.47,26,000/- to the respondents 2 and 3 herein in order to get suitable job to the petitioner's daughter. On receipt of the same, the respondents 2 and 3 failed to get any job and also refused to return the amount. Hence, the complaint.

3.On receipt of the said complaint, the first respondent registered an FIR in Crime No.12 of 2022 for the offences under Sections 406 and 420 IPC. Pursuant to the registration of FIR, the respondents 2 and 3 were arrested and remanded to judicial custody



on 12.05.2022. Therefore, they have filed a petition for bail. In the pending bail petition, the respondents 2 and 3 have filed a compromise memo, as if, they have entered into compromise with the petitioner. **(*)It is to be noted that the respondents 2 and 3 have filed the said compromise memo after obtaining attestation from the jail authorities, that too, when they were in prison.** As per the compromise memo, one of the condition that they shall mortgage the property stands in the name of the third petitioner in favour of the petitioner herein. Accordingly, they mortgaged the property and thereafter, they failed to pay the amount in order to redeem the mortgage. That apart, the Court below granted bail only based on the compromise arrived between the parties and not on merits. Now the respondents 2 and 3 were arrested and remanded to judicial custody in another case, which were also registered for similar offence. It seems that the respondents 2 and 3/A1 and A2 are habitual offenders and used to collect money from general public in order to get job to them.

4.The learned counsel for the petitioner has also relied upon the Judgment of the Hon'ble Supreme Court of India in the case of **Deepak Yadav Vs. State of U.P & Anr** reported in **2022 Livelaw (SC) 562**, in which, the relevant portion of the Judgment is extracted hereunder:-

C. Cancellation of Bail

"...30.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). A two-judge Bench of this Court in **Dolat Ram and Others Vs. State of Haryana** laid down the grounds for cancellation of bail which are:-

(i)interference or attempt to interfere with the due course of administration of Justice evasion or attempt to evade the due course 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 accused absconding.

(v) Likelihood of/actual misuse of bail

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



5.It is true that the cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Where the Court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record. In the case on hand also, the respondents 2 and 3 were granted bail by the Court below on the ground of compromise entered into between the parties. However, according to the petitioner, there was no compromise and even according to the respondents 2 and 3/A1 and A2 herein are concerned, they mortgaged the property in favour of the petitioner and thereafter, they failed to return the amount in order to redeem the mortgage. Therefore, once false representation made and the respondents 2 and 3/A1 and A2 have obtained bail from the Court below. Hence, the respondents 2 and 3 herein are failed to comply with the condition as agreed by them and the bail is liable to be cancelled.

(*) 6. The learned Counsel for the respondents 2 and 3 would submit that the respondents 2 and 3 all along appeared before this Court and requested time to settle the issue, however, today, they represented no instructions from the respondents 2 and 3 and stated that they have already handed over the entire bundle and they had given change of vakalath. Even then the respondents 2 and 3 herein have failed to engage the new counsel and also no appearance today either by person or through pleader.

7.Accordingly, the order of bail granted to the respondents 2 and 3 in Crl.M.P.No.2389 of 2022 by the learned Principal Sessions Court, Madurai, dated 09.06.2022 is cancelled and this petition is allowed. The first respondent police is directed to secure the respondents 2 and 3 and proceed in accordance with law.

sd/-
29/03/2023

**(*) CORRECTED AS PER ORDER OF THIS
COURT DATED 25.04.2023 IN CRL OP (MD)
No.797 OF 2023**

/ TRUE COPY /

/05/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

sj i



To

TO BE SUBSTITUTED WITH THE ORDER DATED 29/03/2023 ALREADY DESPATCHED

- 1 THE PRINCIPAL SESSIONS JUDGE, MADURAI.
- 2 THE INSPECTOR OF POLICE, CENTRAL CRIME BRANCH, MADURAI CITY.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.797 of 2023
Date :29/03/2023

RS/VR/SAR-3(24.04.2023) 4P 4C
RK/VR/SAR-3(25.04.2023) 4P/4C