



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Seventh day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.7106 of 2022
IN
CRL OP(MD) No.6137 of 2022

MOHANKUMAR

... PETITIONER/DE-FACTO COMPLAINANT

Vs

1 NANDHAKUMAR
2 TAMILARASAN
3 VASANTH @ VASANTHAKUMAR
4 ALAGAR
5 CHANDRAMOHAN

6 State Rep.by
THE INSPECTOR OF POLICE
MELAVALLAVU POLICE STATION,
MADURAI DISTRICT.
CRIME.NO.24 OF 2022

... RESPONDENT NOS.1 TO 5/
ACCUSED NOS.2,3 & 5 TO 7

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to cancel the Anticipatory Bail granted by this Honourable Court in Crl.O.P.(MD) No.6137 of 2022 dt. 20/04/2022 the Respondent Nos.2,4 and 5 / Accused Nos.3,6 and 7 forthwith.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.RAJASELVAN, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the 6th Respondent, the court made the following order:-

RESERVED ON	21.06.2023
PRONOUNCED ON	07.07.2023

The above Criminal Miscellaneous Petition has been filed, invoking Section 439(2) Cr.P.C., seeking orders to cancel the anticipatory bail granted to the respondents 2, 4 and 5 in Crl.O.P. (MD)No.6137 of 2022 dated 20.04.2022 by this Court.



2. Admittedly, the petitioner is the defacto complainant. The respondents 1 to 5 are the accused 2, 3 and 5 to 7.

3. On the basis of the complaint lodged by the petitioner, FIR came to be registered in Crime No.24 of 2022 for the alleged offences under Sections 109, 147, 148, 294(b), 307, 323, 324, 341, 379 NP, 427 and 506(2) IPC on the file of the sixth respondent police.

4. The case of the prosecution is that there existed previous enmity between the petitioner's family and the family of the fifth respondent and due to the same, the accused persons colluded themselves and attacked the petitioner with knife and aruval and caused injuries and that they had snatched the petitioner's cell phone and gold ring.

5. It is further case of the petitioner that in the month of December 2021, the respondents 1 to 5 and their family members attacked the brother of the petitioner, for which, a criminal case came to be registered in Crime No.228 of 2021 on the file of the sixth respondent police and that two days prior to the present occurrence, they have threatened the petitioner to withdraw the case registered in Crime No.228 of 2021, for which, also a complaint was lodged against them.

6. It is not in dispute that the respondents 1 to 5 have filed an application for anticipatory bail before this Court in CrI.O.P. (MD)No.6137 of 2022 and this Court, vide order dated 20.04.2022, has granted anticipatory bail to the respondents 2, 4 and 5 by imposing conditions, but since the respondents 1 and 3 were already arrested, dismissed the petition as against them.

7. It is also not in dispute that this Court, while granting anticipatory bail, has directed the respondents 2, 4 and 5 to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand only) each to the credit of Government of Tamil Nadu without prejudice to their rights and contentions before the trial Court, but subsequently, they have filed an application in CrI.M.P.(MD)No.6260 of 2022 seeking modification and this Court, vide order dated 13.06.2022, modified the condition to the effect that the petitioners shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) each to the credit of Government of Tamil Nadu.

8. The petitioner's main contention is that the respondents 2, 4 and 5, after obtaining anticipatory bail, did not comply with the order of this Court, that the petitioner approached the sixth respondent police and requested to take action on the basis of the order of this Court dated 20.04.2022 and to provide police protection to the petitioner and his family members, but the sixth respondent police denied to take swift action against the accused, the petitioner came to know that the sixth respondent police is



taking steps to remove the accused persons in the final report or the reason best known to them, that the respondents 1 to 5 and other accused are having previous cases on the file of the sixth respondent police, that the fifth respondent has recently obtained anticipatory bail in POCSO case, that on 02.04.2022 at about 04.30 p.m., when 10 years old daughter of the petitioner's brother went to bring drinking water, the fifth respondent and other accused had wrongfully restrained her and gave life threat to her and the family members of the petitioner, that on the basis of the complaint lodged, FIR came to be registered in Crime No.40 of 2022 for the alleged offences under Sections 341, 294(b) and 506(1) IPC, that the respondents 1 to 5 are members of a leading political party, that absconding accused 3, 6 and 7/respondents 2, 4 and 5 herein had been continuously harassing the petitioner and his family members to withdraw the complaint and that therefore, the petitioner with no other option has filed the present application to cancel the anticipatory bail granted to the respondents 2, 4 and 5.

9.Despite the receipt of Court notices, the respondents 1 to 5 have not turned up.

10.No doubt, it is settled law that once bail is granted to any person, the same cannot be cancelled in a mechanical manner without there being supervening circumstances, which are not conducive for fair trial and that the power to take back in custody an accused, who has been released on bail has to be exercised with care and circumspection.

11.In **Raghubir Singh and others vs. State of Bihar** reported in **AIR 1987 SC 149**, the Hon'ble Supreme Court has listed out the reasons/grounds for cancelling the bail and the relevant passages are extracted hereunder:-

"(i)the accused misuses his liberty by indulging in similar criminal activity,

(ii)interferes with the course of investigation,

(iii)attempts to tamper with evidence or witnesses,

(iv)threatens witnesses or indulges in similar activities which would hamper smooth investigation,

(v)there is likelihood of his fleeing to another country,

(vi)attempts to make himself scarce by going underground or becoming unavailable to the investigating agency and



(vii) attempts to place himself beyond the reach of surety, etc.,

The above grounds are illustrative and not exhaustive. It must also be remembered that rejection of bail stands on one footing but cancellation of bail is a harsh order because it interferes with the liberty of the individual and hence it must not be lightly resorted to."

12. Bearing the above legal position in mind, let us proceed further with the present case.

13. The sixth respondent police has filed a counter affidavit, wherein, it has been stated that the fourth respondent has already executed the sureties before the concerned Court on 28.06.2022 and thereby complied with the conditions imposed by this Court, that after investigation, they have deleted the fifth respondent and already sent the deletion report to the jurisdictional Court, that the second respondent did not comply with the order of this Court and instead of producing sureties, he threatened the petitioner to withdraw the case and hence, another case came to be registered against him in Crime No.40 of 2022 and that investigation has almost been completed and they are going to file a charge sheet shortly.

14. As already pointed out, the main reason advanced for cancellation of anticipatory bail to the respondents 2, 4 and 5 is that they have not complied with the conditions imposed by this Court while granting anticipatory bail.

15. The learned Additional Public Prosecutor appearing for the sixth respondent would submit that the fourth respondent has already executed the sureties as directed by this Court and he has also appeared before the sixth respondent police as directed by this Court, but the second respondent has not chosen to execute the sureties till now, but he alone had been threatening the petitioner to withdraw the case. He would further submit that since the investigation revealed that the fifth respondent is not involved in the occurrence, he has been deleted and deletion report has already been submitted before the jurisdictional Court.

16. Since the fifth respondent has already been deleted from the above case, the question of cancelling the anticipatory bail granted to him does not arise at all. Since the fourth respondent has already complied with the conditions and as there is no specific allegation that he had also been threatened the petitioner to withdraw the case, this Court is not inclined to cancel the anticipatory bail granted to him.

17. But at the same time, even after getting the order, the second respondent did not comply with the order of this Court till
<https://www.hc.in/judis> already pointed out, even according to the prosecution, he



has been threatening the petitioner to withdraw the case.

18. Considering the above facts and circumstances and taking note of the non-compliance of the conditions imposed while granting anticipatory bail and also taking note of the submission of the learned Additional Public Prosecutor that the second respondent has threatened the petitioner to withdraw the case, this Court is inclined to cancel the anticipatory bail granted to the second respondent.

19. In the result, this Criminal Miscellaneous Petition is partly allowed and the anticipatory bail granted to the second respondent in Crl.O.P.(MD)No.6137 of 2022 is hereby cancelled and this petition with respect to the respondents 4 and 5 is dismissed.

sd/-

07/07/2023

/ TRUE COPY /

/07/2023

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

CSM

TO

1 THE JUDICIAL MAGISTRATE, MELUR, MADURAI DISTRICT.

2 DO THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE, MELAVALAVU POLICE STATION,
MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.R.RAJASELVAN Advocate SR.No.33077[F] DATED
07.07.2023

ORDER

IN

CRL MP(MD) No.7106 of 2022

IN

CRL OP(MD) No.6137 of 2022

Date :07/07/2023

RS/DD/SAR-(12.07.2023) 5P 6C