



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)Nos.13724, 13725 and 13729 of 2022

S.Anbuselvan

... Petitioner/De-facto Complainant
/De-facto Complainant
in all petitions**vs.**

1.State Rep.by

The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
Crime No.160 of 2022... Respondent/Respondent
in all petitions

2.K.Balamurugan

3.P.Vijay

... Respondents/Petitioner/Accused
in Crl.O.P.(MD)No.13724 of 2022

2.Vellaichamy

3.Siva

... Respondents/Petitioner/Accused
in Crl.O.P.(MD)No.13725 of 2022

2.Mani

3.Prabhakaran

4.Vadivel

... Respondents/Petitioner/Accused
in Crl.O.P.(MD)No.13729 of 2022**PRAYER in Crl.O.P.(MD)No.13724 of 2022 :**

This Criminal Original Petition has been filed under Section 439(2) r/w 482 of Cr.P.C., to cancel the bail granted to the respondents 2 and 3 in Crl.M.P.No.1522 of 2022, dated 24.05.2022 on the file of the learned Judicial Magistrate, Nilakottai.

PRAYER in Crl.O.P.(MD)No.13725 of 2022 :

This Criminal Original Petition has been filed under Section 439(2) r/w 482 of Cr.P.C., to cancel the bail granted to the respondents 2 and 3 in Crl.M.P.No.129 of 2022, dated 18.05.2022 on the file of vacation Sessions Judge, Dindigul.

PRAYER in Crl.O.P.(MD)No.13729 of 2022 :

This Criminal Original Petition has been filed under Section 439(2) r/w 482 of Cr.P.C., to cancel the bail granted to the respondents 2 to 4 in Crl.M.P.No.1389 of 2022, dated 16.05.2022 on the file of the learned Judicial Magistrate, Nilakottai.

For Petitioner
(in all petitions): Mr.K.Mahendran, Advocate
for Mr.R.Kavinprasath, AdvocateFor R1
(in all petitions): Mr.B.Thanga Aravindh
Government Advocate (Crl. side)



For R2
(in Crl.OP.(MD).13724/2022)

: Mr.P.Balasubramanian, Advocate

For R3
(in Crl.OP.(MD).13724/2022)

: Mr.Prasana Rajadurai, Advocate

&
For R3 & R4
(in Crl.OP.(MD).13729/2022)

For R2 & R3
(in Crl.OP.(MD).13725/2022)

: Mr.D.Ramesh Kumar, Advocate

COMMON ORDER

Crl.O.P.(MD)No.13724 of 2022 has been filed to cancel the bail granted to the respondents 2 and 3 in Crl.M.P.(MD)No.1522 of 2022, dated 24.05.2022 on the file of the learned Judicial Magistrate, Nilakottai.

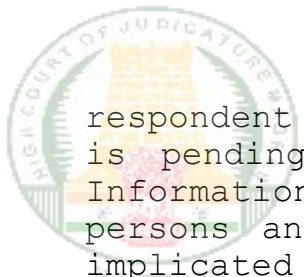
2.Crl.O.P.(MD)No.13725 of 2022 has been filed to cancel the bail granted to the respondents 2 and 3 in Crl.M.P.(MD)No.129 of 2022, dated 18.05.2022 on the file of vacation Sessions Judge, Dindigul.

3.Crl.O.P.(MD)No.13729 of 2022 has been filed to cancel the bail granted to the respondents 2 to 4 in Crl.M.P.(MD)No.1389 of 2022, dated 16.05.2022 on the file of the learned Judicial Magistrate, Nilakottai.

4.On the complaint lodged by the petitioner, the first respondent police registered the First Information Report in Crime No.160 of 2022 for the offences under Sections 365, 147, 148 and 109 of IPC. Pursuant to the registration of FIR, the accused persons 1 to 7 were arrested and remanded to judicial custody on 25.04.2022. Therefore, they have filed applications for bail before the Courts below and the Courts below have granted bail for the reason that they have no previous case and also considering the period of incarceration.

5.The learned counsel for the petitioner would submit that some of the accused had previous cases, without considering the same, the Courts below have granted bail to them. Hence, he prayed for dismissal of these petitions.

6.The learned Additional Public Prosecutor would submit that insofar as A3 is concerned, he is having four previous cases; A5 is concerned, he is having three previous cases; and A7 is concerned, he is having six previous cases. However, it was not brought to the knowledge of the Courts below. Now the entire investigation in Crime No.160 of 2022 has been transferred from the file of the first



respondent to the file of the District Crime Branch, Dindigul. It is pending for investigation. That apart, originally, the First Information Report has been registered as against three accused persons and all the three accused were deleted from the FIR and implicated the other seven persons as A1 to A7.

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7. The case of the prosecution is that the petitioner was kidnapped for ransom on the instigation of the rival party claiming ownership in respect of the subject property.

8. In the case on hand, the concept of crime in the contextual sense of kidnapping has really undergone a sea change and has really shattered the spine of the orderly society. Therefore, there should have been proper analysis of the criminal antecedents. While considering the applications for bail, the custody of the accused is a relevant factor, but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed. Insofar as the accused 5 and 7 are concerned, they had previous cases. Since it was not brought to the knowledge of the Courts below, the Courts below have granted bail considering the period of incarceration by them.

9. In view of the above, this Court is inclined to cancel the bail granted to the accused No.3, 5 and 7 alone.

10. Accordingly,

(i) CrI.O.P.(MD)No.13724 of 2022 is allowed and the bail already granted to A3 and A5 in CrI.M.P.No.1522 of 2022, dated 24.05.2022 by the learned Judicial Magistrate, Nilakottai, is hereby cancelled;

(ii) CrI.O.P.(MD)No.13725 of 2022 is dismissed in respect of A1 and A2 are concerned;

(iii) CrI.O.P.(MD)No.13729 of 2022 is dismissed in respect of A4 and A6 are concerned and allowed in respect of A7 is concerned and the bail already granted to A7 in CrI.M.P.No.1389 of 2022, dated 16.05.2022 by the learned Judicial Magistrate, Nilakottai, is hereby cancelled.

11. However, the investigation has been transferred to the file of the District Crime Branch, Dindigul from the file of the first respondent. Therefore, the Inspector of Police, District Crime Branch, Dindigul is directed to secure A3, A5 and A7 and proceed in accordance with law.

sd/-

29/03/2023

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/04/2023

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



To

1 THE VACATION SESSIONS JUDGE, DINDIGUL.

2 THE JUDICIAL MAGISTRATE, NILAKOTTAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE, BATLAGUNDU POLICE STATION,
DINDIGUL DISTRICT.

5 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, DINDIGUL.

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

+3 CC to M/s.R.KAVINPRASATH, Advocate (SR-5069[I], SR-5070[I],
SR-5071[I] dated 29/03/2023)

ORDER IN
Cr1.OP (MD) Nos.13724, 13725 & 13729/2022
Date :29/03/2023

RS/BUC/SAR-1 (28.04.2023) 4P 10C