



Crl.O.P.(MD)No.15627 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 14/12/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP (MD)No.15627 of 2023

The Inspector of Police,
Vigilance and Anti Corruption,
Tirunelveli.

(Crime No.1 of 2023)

: Petitioner/Complainant

Vs.

T.Chokkalingam,
Panchayat Secretary,
South Veeravanallur Village,
Cheranmahadevi Union,
Tirunelveli District.

: Respondent/Accused

PRAYER:- Criminal Miscellaneous Petition has been filed under section 439(2) Cr.P.C seeking cancellation of bail granted in Cr.M.P No.1803 of 2023, dated 10/02/2023 by the Principal Sessions Court, Tirunelveli.

For Petitioner : Mr.S.Ravi
Additional Public Prosecutor

For Respondent : Mr.S.S.Kumar

O R D E R

This Criminal Miscellaneous Petition is filed seeking cancellation of bail granted to the respondent.



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2. The facts in brief:-

The respondent was arrayed as an accused in Crime No.1 of 2023 on the file of the petitioner herein. In the complaint, it has been stated that the respondent alleged to have demanded bribe amount of Rs.3,000/-, on 23/01/2023 from the de-facto complainant for changing the house tax assessment. As usual, trap was laid and the respondent was arrested, while accepting the bribe amount from the de-facto complainant. On 28/01/2023, he was arrested and remanded to custody. He moved bail application before the Special Court. That was allowed. He moved Principal District Judge, Tirunelveli by filing application in Cr.M.P No.1803 of 2023. At the time of hearing the bail application, it was informed to the Principal District Judge, Tirunelveli, as per the judgment passed by this court in the case of Sridharan Vs. State (Crl.OP No.28874 of 2019, dated 25/10/2019), Sessions Judge can entertain the anticipatory bail. So the power of the Principal District Judge to entertain the bail application for the offence under section 7(a) of the PC Act is not a bar.

3. On that account, it was entertained, since the power of hearing the anticipatory bail is at par with the



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regular bail application and the order was passed on merits also.

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4. Aggrieved over the exercise of power by the Principal District Judge, Tirunelveli, this petition is moved by the prosecution stating that the Principal District Judge, Tirunelveli, absolutely, has not power to entertain the bail application. Since regular bail was dismissed by the Special Court, the respondent ought to have move the High Court. Principal District Judge has no power to even as per the provisions of the PC Act to entertain the regular bail.

5. The matter was heard on more than one occasions.

6. The learned counsel appearing for the respondent would rely upon the judgment of the Coordinate Bench of this court in the case of **V.Sridharan Vs. State, by Deputy Superintendent of Police Vs. AC, Alandur and another [(2020)2 MLJ (Crl) 62]**. Exactly on that point only, the Principal Sessions Judge entertained the regular bail application, But the regular bail application was entertained by the Special Court. It was dismissed.



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7. Section 439 of Cr.P.C reads as under:-

"439. Special powers of High Court or Court of Session regarding bail. (1) A High Court or Court of Session may direct-

(a) that any person accused of an offence and in custody, be released on bail, and if the offence is of the nature specified in sub-section (3) of Section 437, may impose any condition which it considers necessary for the purposes mentioned in that sub-section;

(b) that any condition imposed by a Magistrate when releasing any person on bail be set aside or modified:

Provided that the High Court or the Court of Session shall, before granting bail to a person who is accused of an offence which is triable exclusively by the Court of Session or which, though not so triable, is punishable with imprisonment for life, give notice of the application for bail to the Public Prosecutor unless it is, for reasons to be recorded in writing, of opinion that it is not practicable to give such notice.

Provided further that the High Court or the Court of Session shall, before



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granting bail to a person who is accused of an offence triable under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code, give notice of the application for bail to the Public Prosecutor within a period of fifteen days from the date of receipt of the notice of such application.

(1A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code.]

(2) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody."

8. Since the order has been passed by the Sessions Judge by relying upon the judgment of the Co-ordinate Bench of this court reported in the case of **V. Sridharan Vs. State, by Deputy Superintendent of Police V and AC, Alandur and another [(2020) 2 MLJ (Cr1) 62]**, unless the prosecution is able to convince this court that in violation of the statutory provisions bail was moved by



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the respondent before the Sessions Court, no cancellation can be effected.

9.This petition has not been filed on the subsequent conduct of the respondent subsequent to the bail, or violation of the bail condition etc. So the prosecution cannot rely upon the usual practice and custom to entertain this petition.

10.In the result, this criminal original petition is **dismissed.**

Index:Yes/No
Internet:Yes/No
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14/12/2023

To,

- 1.The Principal Sessions Judge,
Tirunelveli.
- 2.The Inspector of Police,
Vigilance and Anti Corruption,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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