



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

Date : 08/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN
CRL OP(MD). No.18615 of 2022

WEB COPY

Ambethcar

... Petitioner/Defacto Complainant/
Defacto Complainant

Vs

1.The State rep.by,
Inspector of Police,
District Crime Branch,
Thanjavur.
(Crime No. 2 of 2022).

... 1st Respondent/Respondent/
Complainant

2. Karthika

... 2nd Respondent/ Petitioner/
Accused No.2

For Petitioner : M/s.Karunanithi M,
Advocate.

For R - 1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)

For R - 2 : Mr.G.Karuppasamy Pandian, Advocate

CANCELLATION OF BAIL (SECTION 439(2))

PRAYER :-

To Cancel the Bail granted in Crl.M.P.No. 3594 of 2022 on the file of the learned Judicial Magistrate No. II, Thanjavur, dated 30.09.2022.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed to cancel the bail granted to the second respondent in Crl.M.P.No.3594 of 2022 on the file of the learned Judicial Magistrate No. II, Thanjavur, dated 30.09.2022.

2.The learned counsel appearing for the petitioner would submit that the second respondent is arraigned as second accused in Crime No.2 of 2022. The allegations are very serious in nature since Accused Nos.1 and 2 had cheated Rs.1 crore. However, the learned Magistrate while granting bail, without considering the gravity of the offence committed by the accused and without even hearing the



learned Government Advocate, accordingly, granted bail to the respondent. Though the learned Magistrate stated that on perusal of the medical records, the second respondent was granted bail, the learned Magistrate failed to state what are the medical records verified by the Court below while considering the petition for bail. In support of his contention, he relied on the Judgment of the Honourable Supreme Court in the case of Deepak Yadav Vs. State of Uttar Pradesh and another in S.L.P(Crl.)No.9655 of 2021, in which, the Honourable Supreme Court of India held that on what circumstances the bail granted can be cancelled as follows:-

a) Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.

b) Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.

c) Where the past criminal record and conduct of the accused is completely ignored while granting bail.

d) Where bail has been granted on untenable grounds.

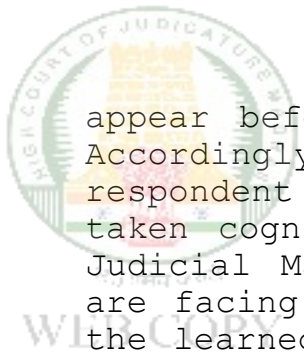
e) Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

f) Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.

g) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case."

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. On perusal of the records revealed that the second respondent is arraigned as A.2. This Court dismissed her anticipatory bail petition in Crl.O.P(MD)No.3711 of 2022, dated 12.04.2022 on the ground of gravity of the offence committed by the accused. Therefore, the second respondent was arrested and remanded to judicial custody. The Court below considered the bail application on the ground that the second respondent is suffering from gynecological ailments and she is under medication and also produced the medical records before the Court below. That apart, two minor children are in the custody of the second respondent. Therefore, the trial Court, considered the medical ailments of the second respondent and other circumstances, granted bail to the second respondent. The trial Court also verified the case diary and other records while granting bail to the second respondent. The Court below also imposed the condition that the second respondent shall



appear before the first respondent on every Sunday at 10 a.m. Accordingly, she duly complies with the condition. The first respondent now completed the investigation and the same has been taken cognizance in C.C.No.36 of 2023 on the file of the learned Judicial Magistrate No.II, Thanjavur and now, the accused persons are facing trial. Under these circumstances, the Judgment cited by the learned counsel appearing for the petitioner is not helpful to the case on hand. Hence, this Court finds no ground to cancel the bail granted to the second respondent. Hence, this Criminal Original Petition is dismissed.

sd/-

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/03/2023

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

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TO

- 1.THE JUDICIAL MAGISTRATE NO. II, THANJAVUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT @ KUMBAKONAM.
- 3.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
THANJAVUR.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.18615 of 2022

Date :08/03/2023

RK/BUC/SAR-4 (20/03/2023) 4P/5C