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CRL.MP.NO.8313 OF 2024
IN CRL.O.P.NO.11319 OF 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

CRL.MP.NO.8313 OF 2024

IN

CRL.O.P.NO.11319 OF 2024

The State of Tamil Nadu
Rep. by The Inspector of Police
Gudalur Police Station
Nilgiris District.
(Crime No.117 of 2024)

... Petitioner / Complainant

Versus

Sree Kumar

... Respondent / Accused-4

PRAYER: Criminal Miscellaneous Petition filed under Section 439(2) of The Code of Criminal Procedure, 1973, praying to cancel the Anticipatory Bail granted to the respondent / accused-4 by this Court in CrI.O.P.No.11319 of 2024 vide order dated 15.05.2024.

For Petitioner : Mr.C.E.Pratap
Government Advocate (Crl. Side)

For Respondent : Mr.K.Madhu

ORDER



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The Inspector of Police, Gudalur Police Station, Nilgiris District filed this Criminal Miscellaneous Petition praying to cancel the order of pre-arrest bail granted to the respondent / accused – 4 vide order of this Court dated May 15, 2024 passed in Crl.O.P.No.11319 of 2024

2.Mr.C.E.Pratap, learned Government Advocate (Criminal Side) appearing for the petitioner / State has submitted that the petitioner / State registered a case against the respondent / accused-4 in Crime No.117 of 2024 on April 21, 2024 under Section 25(1B) (a) of the Arms Act, 1959. The respondent/accused-4 filed a petition under Section 438 of The Code of Criminal Procedure Code, 1973 and thereby sought for an order of pre-arrest bail in Crl.O.P.No.11319 of 2024 and the same was allowed by this Court on May 15, 2024. He further submitted that when Crl.O.P.No.11319 of 2024 came up before this Court, the petitioner was not fully aware of the bad antecedents of the respondent / accused-4 pertaining to the forest offences committed by him earlier.

2.1.The learned Government Advocate (Criminal Side) has



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further submitted that the Forest Range Officer, Naduvattam Range registered a case against the respondent / accused-4 in W.L.O.R.No.1 of 2024 under Section 9 read with Section 2(16), Sections 39, 50 and 51 of the Wild Life (Protection) Act, 1972. Further, the Forest Range Officer, Gudalur Range, Nilgiris District had registered a case against the respondent/ accused-4 in W.L.O.R.No.4 of 2024 under Section 9 read with 2(16), Sections 39 and 51 of the Wild Life (Protection) Act, 1972. The Forest Range Officer, Gudalur Range, Nilgiris District had also registered another case in S.T.O.R.No.1 of 2024 on April 25, 2024 against the respondent / accused under Sections 3 and 6(1) of the Tamil Nadu Rosewood Trees (Conservation) Act, 1994. However, the said facts were not brought to the notice of this Court at the time of hearing the pre-arrest bail petition.

2.2.The learned Government Advocate further submitted that the respondent / accused-4 did not comply with the conditions imposed in the pre-arrest bail order granted on May 15, 2024 made in Crl.O.P.No.11319 of 2024 and thereby, violated the order passed by this Court. Accordingly, he prayed to allow the Criminal Miscellaneous Petition and thereby, cancel the pre-arrest bail granted to the respondent/accused-4.

3.Per contra, Mr.K.Madhu, learned counsel appearing for the respondent / accused-4 filed counter and submitted that this Court granted



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pre-arrest bail to the respondent / accused – 4 for the case registered in W.L.O.R.No.1 of 2024, on May 15, 2024 in Crl.O.P.No.11323 of 2024; for the case registered in W.L.O.R.No.4 of 2024, vide order dated June 14, 2024 made in Crl.O.P.No.12573 of 2024; and for the case registered in S.T.O.R.No.1 of 2024, vide order dated July 4, 2024 made in Crl.O.P.No.15333 of 2024. Though the respondent/accused-4 was granted pre-arrest bail on May 15, 2024 in Crl.O.P.No.11319 of 2024, the respondent/accused-4 was granted pre-arrest bail in S.T.O.R.No.1 of 2024 only on July 4, 2024. Therefore, the respondent / accused-4 was not able to appear, surrender and execute sureties as ordered by this Court and thus, could not comply with the order of this Court. There is no intentional or wilful disobedience of the order passed by this Court. Accordingly, he prayed to dismiss the petition.

4.This Court has heard the submissions made by Mr.C.E.Pratap, learned Government Advocate (Criminal Side) appearing for the petitioner / State and Mr.K.Madhu, learned counsel appearing for the respondent / accused–4.

5.The points that arises for consideration are:

(i)Whether the respondent/accused-4 has complied with the conditions imposed in the pre-arrest



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bail order dated May 15, 2024 by this Court in
Crl.O.P.No.11319 of 2024?

(ii) Whether the pre-arrest bail granted to the
respondent/accused-4 is to be cancelled?

Discussion and Decision

6.The Inspector of Police, Gudalur Police Station, Nilgiris District registered a case in Crime No.117 of 2024 under Section 25(1B)(a) of Arms Act, 1959. The respondent / accused-4 apprehending arrest at the hands of the petitioner filed Crl.O.P.No.11319 of 2024 and the same was allowed by this Court on May 15, 2024 with the following conditions:

*“ (i) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the learned Judicial Magistrate, Gudalur, Nilgiris District, within a period of **15 days from today**, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousands only) along with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Gudalur, Nilgiris District;*

(ii) The petitioner shall appear and sign before respondent Police daily twice, at 10.00 a.m. and 05.00 p.m., until further orders;

(iii) The sureties shall affix their photographs and left



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thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to the Criminal Rules of Practice, 2019]. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;

(iv) The petitioner shall make himself available for interrogation by police as and when required;

(v) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;

(vi) The petitioner shall not leave India without the prior permission of the Court; and

(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

(Emphasis supplied)”

7.Mr.C.E.Pratap, learned Government Advocate (Criminal Side), on instructions has submitted that unfortunately, when the matter came up for hearing on May 15, 2024, the bad antecedents of the respondent / accused-4 have not been brought to the notice of this Court. He further submitted that



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till date, the respondent / accused-4 has neither surrendered nor complied with the aforementioned conditions imposed by this Court.

8.The reasons stated by the respondent / accused-4 for non-compliance of the conditions imposed by this Court vide order dated May 15, 2024 passed in CrI.O.P.No.11319 of 2024 are not satisfactory. Since the respondent / accused-4 has not complied with the conditions, the pre-arrest bail order automatically stands revoked. Further, the Vacation Bench of this Court granted pre-arrest bail order in favour of the respondent / accused-4 on May 15, 2024 and the said order was uploaded on the official website of this Court on May 18, 2024 and copies of this order were despatched on May 27, 2024. Notably, the respondent / accused-4 has not filed any petition seeking extension of time to comply with the pre-arrest bail order dated May 15, 2024 within 15 days from the date of order. Though this Court granted sufficient time to comply with the conditions, the reasons, now stated by the respondent / accused-4 for non-compliance of the conditions are not satisfactory. Further, it is stated by the petitioner / State that the respondent / accused-4 has two previous cases under the Wile Life (Protection) Act, 1972. Considering the facts and circumstances of this case, this Court is inclined to allow this Criminal Miscellaneous Petition. The point that arises for consideration is



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answered accordingly in favour of the petitioner / State and against the respondent / accused-4.

9. Accordingly, this Criminal Miscellaneous Petition is allowed and the pre-arrest bail order granted to the respondent/accused-4 in Crl.O.P.No.11319 of 2024 on May 15, 2024 is hereby cancelled.

18.07.2024

Index : Yes
Internet : Yes
Neutral citation : Yes
Speaking order
TK

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned are to comply with this order, which has been uploaded on this Court's official website, without insisting on certified copies. Note that when this order is uploaded, it will include a watermark and QR Code for verification.**

To

The Public Prosecutor
High Court of Madras.



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R.SAKTHIVEL, J.

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