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Crl.M.P.No.9466 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.02.2024

PRONOUNCED ON : 07.03.2024

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.M.P.No. 9466 of 2021

IN

Crl.O.P.No. 29526 of 2008

The State Represented by
The Inspector of Police, 'Q' Branch CID
Q-Branch CID
Chennai City,
Chennai – 600 005.

(Crime No.2 of 2008)

... Petitioner/Respondent

Vs.

Selvam @ Selva Kumar

... Respondent/Petitioner

PRAYER: Criminal Miscellaneous Petitions filed under Section 482 of Cr.P.C., pleaded to cancel the bail granted in Crl.M.P.No. 6201 of 2008 by order dated 15.10.2008 passed by the Judicial Magistrate No.I, Alandur to the respondent/accused.



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For Petitioner : Mr. R.Vinoth Raja
Government Advocate (Crl.Side)

For Respondent: No representation

Crl.O.P.No. 29526 of 2008:

Criminal Original Petition filed under Section 439(1)(b) of Cr.P.C., praying to for a direction to modify the conditions that imposed on the petitioner in the above said Crl.M.P.No. 6201 of 08 dated 15.10.2008 on the file of the Judicial Magistrate, Alandur.

ORDER

This Petition has been filed by the Prosecution/State, Rep. by Inspector of Police, 'Q' Branch CID, Chennai, to cancel the bail granted in Crl.M.P.No. 6201 of 2008 by the learned Judicial Magistrate No.1, Alandur, by order dated 15.10.2008.

2. In the affidavit filed in support of the petition, the Inspector of Police, 'Q' Branch CID, Chennai, had stated that originally Crime No. 2 of 2008 was registered under Sections 120(b) IPC and Sections 10, 13(1)(2) of Unlawful Activities (Prevention) Act, 1967 on the basis of the information received. While keeping watch on the movements of Sri Lankan Tamils in



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Madipakkam area, they had seen a person moving suspiciously at Keezhakattalai Bus Stop. On enquiry, he gave his name as Selvam @ Selvakumar, a citizen of Sri Lanka and residing at Kelambakkam. On checking his bag, a box containing electronic circuit was found. He stated that he was carrying it to be handed over to Jeevan @ Inniyan, who belonged to the Intelligence Wing of LTTE.

3. The petitioner had arrested Selvam @ Selvakumar and brought him to the 'Q' Branch CID at Chennai and later, on his confession, two Power Stations, 8 Nano Stations, 9 Internet Phone Adaptors and 2 Cell Phones were seized. It was also found that he had obtained an Indian Passport from Trichy Regional Passport Office to move to a foreign country. Thereafter, on completing investigation, a final report was filed on 09.06.2011 and it was taken cognizance as P.R.C.No. 39 of 2011 by the Judicial Magistrate No.I, Alandur.

4. The accused filed an application seeking bail and bail had been granted in Crl.M.P.No. 6201 of 2008 by order dated 15.10.2008 by the learned Judicial Magistrate No.I, Alandur. The accused then absconded from



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the judicial process necessitating Non Bailable Warrant to be issued on 21.09.2015. Thereafter, the learned Judicial Magistrate No.1, Alandur, had taken action against the sureties under Section 446 of Cr.P.C. Further, the petitioner had also filed an application under Section 82 of Cr.P.C., to initiate process to declare the respondent as proclaimed offender. But however since bail had been granted, it is contended that the order of bail should be cancelled, before such proclamation is issued.

5. It must also be mentioned that while granting bail in Crl.M.P.No. 6201 of 2008 the learned Judicial Magistrate No.I, Alandur, had imposed a condition that the accused should execute a bond of Rs.25,000/- with two sureties for likesum. Questioning that particular condition, the accused had filed Crl.O.P.No. 29526 of 2008 before this Court and a learned Single Judge by an order dated 08.12.2008 had modified the same to execution of bond of Rs.5,000/- with two sureties with likesum.

6. Heard Mr.R.Vinoth Raja, learned Government Advocate (Crl. Side) appearing for the petitioner.



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7. It is stated by the learned Government Advocate (Crl.Side) that the accused was found in possession of electronic materials including electronic circuits and play stations which are essential items for manufacturing of explosive devices. It is pointed out that the accused had also obtained an Indian Passport from Trichy Regional Passport Office. It is contended that soon after he had obtained bail, he had absconded from judicial process. It is further contended that necessary steps had been taken against the sureties under Section 446 of Cr.P.C., and in order to take further steps to declare the accused as a proclaimed offender, the order granting bail by the learned Judicial Magistrate must be set aside.

8. I have carefully considered the facts and circumstances.

9. This is a case where the accused was found in possession of extremely sensitive electronic materials like an Electronic Circuit, 2 Power Stations, 8 Nano Stations, 9 Internet Phone Adaptor and 2 Cell phones. All these could be used as a remote and as a timer devices for any explosive item prepared using the electronic circuit. The accused is a Sri Lankan citizen but had also obtained an Indian Passport at Trichy Passport Office. He had also



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been granted bail by the learned Judicial Magistrate No.1, Alandur and subsequently the bail conditions were also relaxed and modified by a learned Single Judge of this Court.

10. The petitioner had absconded and Non Bailable Warrant was issued on 21.09.2015. For the past 8 years he is absconding. In order to issue necessary proclamation under Section 82 of Cr.P.C., it is essential that the bail granted by the learned Judicial Magistrate No.I, Alandur, in Crl.M.P.No. 6201 of 2008, by order dated 15.10.2008 is set aside.

11. Notice had been directed but the accused could not be secured. Paper publication have also been effected. Proof of the same are also available in the records.

12. It is trite in law to point out that violation of any bail condition particularly of appearance before the Court for continuous number of years would be a sufficient ground for cancellation of the bail granted. The accused has simply disappeared in thin air. The facts are straight forward. A Non Bailable Warrant had been issued on 21.09.2015. The bail bonds executed by the sureties have been cancelled but still the accused had not appeared.



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13. In view of these facts, the bail granted to the accused in Crl.M.P.No. 6201 of 2008 by an order dated 15.10.2008 by the learned Judicial Magistrate No.I, Alandur, is hereby cancelled. The petitioner is directed to take further steps in accordance with law. This Petition stands allowed.

07.03.2024

vsg

Index:Yes/No

Neutral Citation:Yes/No

Speaking order : Yes/No

To

1. Judicial Magistrate No.I, Alandur.

2 The Public Prosecutor,
High Court of Madras.

3. The Inspector of Police
'Q' Branch CID

Chennai City,
Chennai – 600 005.
Cr.No.2 of 2008



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C.V.KARTHIKEYAN, J.

vsg

Pre Delivery Order made in
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