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Criminal Original Petition No.22300 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.22300 of 2023

Natarajan

... Petitioner

Vs.

1.Aravind Kumar

2.State rep.by

The Inspector of Police,
District Crime Branch,
Crime No.13 of 2022,
Salem

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to grant an order of interim stay of the order 20.06.2023 made in CrI.MP.No.1410 of 2023 passed by the Ld. Judicial Magistrate No.6, Salem pending disposal of this Criminal Original Petition.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.A.Gopinath
Govt. Advocate (CrI.Side) – R2
: Mr.V.Elangovan – R1



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ORDER

WEB COPY This criminal original petition has been filed challenging the order passed by the Court below in CrI.MP.No. 1410 of 2023 dated 20.06.2023 allowing the application filed by the first respondent/de-facto complainant cancelling the bail that was granted in favour of the petitioner in CMP No.650 of 2023 dated 03.03.2023.

2. Heard Mr.N.Manoharan, learned counsel for the petitioner and Mr.V.Eangovan, learned counsel for the 1 respondent and Mr.A.Gopinath, learned Government Advocate (CrI.Side) for the 2nd respondent.

3. The petitioner was arrested and remanded to judicial custody on 25.02.2023, in the course of investigation in Cr.No.13 of 2022. The petitioner filed a bail application in CrI.MP.No.650 of 2023. The learned Judicial Magistrate No. VI, Salem vide an order dated 03.03.2023, enlarged the petitioner on bail by imposing certain conditions. One such condition that was imposed was that the petitioner will not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.



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4. The first respondent/de-facto complainant filed the application for cancellation of bail, mainly on the ground that the petitioner is indulging in such activities which causes threat to the de-facto complainant and the petitioner is also attempting to tamper with the other prosecution witnesses. For proper appreciation, the relevant allegations made in the petition filed for cancellation of bail is extracted hereunder:-

“The petitioner submits that, the character, behavior, means, position and other circumstances have caused reasonable apprehension in his mind that the 1st respondent will go to the extent of annihilating the life of the petitioner. Further, the 1st respondent in order to get away from the clutches of law have indulged in various activities like tampering with the prosecution witnesses, threatening the petitioner and also create various other problems.”

5. The Court below has considered the rival submissions and has passed the impugned order dated 07.09.2023. The reason that has been assigned by the Court below while cancelling the bail is extracted hereunder:

“7. It was at this circumstances, de-facto complainant has come forward with this petition for



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cancellation of bail on two grounds viz., I respondent started threatening the petitioner with dire consequences and indulged in various activities like tampering with the prosecution witnesses and creates various other problems and I respondent requires detailed custodial interrogation. Per contra, the respondent has denied the averments of petitioner stating that the allegations are imaginary and no documents were filed in support of the allegation. Moreover, the prosecution has not filed their reply in this petition. The prosecution has made endorsement that to uphold the victim justice petition may be allowed. The endorsement of prosecution side supports the averments of petitioner. As per the catena of precedents, it is settled law that in cases wherein, there is violation of bail conditions, even the court of the magistrate has the power to order arrest of accused and his committing to custody under section 437(5) Cr.P.C. in cases wherein bail was granted under section 437(1) of Cr.P.C.. When there is violation of bail conditions, the prosecution or aggrieved need not rush to the superior courts, whereas they can approach the very same court under section 437(5) Cr.P.C., as such this petition is maintainable. It is pertinent to note that in the case under consideration, this court has granted bail for A2 Natarajan subject to conditions. Though, said Natarajan has been complying the condition of appearance before respondent police, he has violated the condition and indulge in tampering of witnesses. Considering the safety of witnesses, this court is inclined to cancel the bail granted to A2 Natarajan in Cr.M.P.No. 650/2023 dated 03.03.2023. The point is answered accordingly."

6. The bail that is granted in favour of the accused person can be



cancelled, if there is violation of any conditions imposed by the Court or there are some supervening circumstances which warrants the Cancellation of the bail. In the instant case, the de-facto complainant has made certain bald/general allegations to the effect that the petitioner is involved in certain activities which causes threat to the de-facto Complainant and that he is also attempting to tamper with the prosecution witnesses. While making this allegation specific details will have to be given by the de-facto complainant as to why he came to such a Conclusion or why he entertained such a thought in his mind. In the absence of the same, anyone can make general allegations and seek for cancellation of bail. While granting bail to an accused person, the liberty of such person is restored and while taking back that liberty, there must be sufficient materials to cancel the bail and re-arrest the accused person. Neither in the petition filed by the first respondent/de-facto complainant specific details have been given nor the order passed by the Court has assigned any proper reasons for the cancellation of bail.

7. In view of the above, the order passed by the Court below by above, the allowing the application and cancelling the bail granted in



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favour of the petitioner (A2) is liable to be interfered by this Court and accordingly the same is hereby set aside. The petitioner is expected to strictly comply with the conditions imposed by the Court below while granting bail to the petitioner.

8. With the above observations and directions, this criminal original petition stands allowed.

20.02.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To:

- 1.The Hon'ble Learned Judicial Magistrate No.6, Salem.
- 2.The Inspector of Police,
Veeranam Police Station,
Salem City.
- 3.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J.

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