



WEB COPY



CRL M.P. No.13260 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.10.2024

CORAM

The Hon'ble Mr.Justice P.DHANABAL

Crl. M.P. No.13260 of 2024

Francis George Petitioner / Defacto
complainant.

VS

1. A. Bhaskar S/o. Late Appapillai Chettiyar ... 1st Respondent /
2nd Accused

2. The State represented by:-

The Inspector of Police,
Central Crime Branch,
Fake Document Investigation Wing,
Beta-10, Vepery, Chennai-600 007. ... 2nd Respondent / [Cr.
No.160 of 2023] Complainant

PRAYER: - The Criminal Original Petition is filed under Section 483(3)
of Criminal Procedure Code praying to cancel the bail granted to the 1st
respondent / Accused No.2 vide order passed in Crl. O.P. No.14521 of
2024 dated 02.07.2024.

For Petitioner : Mr. Rajinish Pathiyil
for Ms. S. Geetha



WEB COPY



CRL M.P. No.13260 of 2024

For Respondents : Mr. Om Sairam [for R1]

Mr. S. Santhosh [for R2]
Govt. Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner to cancel the bail granted to the 1st respondent in Crl. O.P. No.14521 of 2024 dated 02.07.2024.

2. The learned counsel appearing for the petitioner would contend that the petitioner is the defacto complainant in Cr. No.160 of 2023 on the file of the 2nd respondent. Based on the complaint, FIR has been registered for the offences under Sections 120-B, 420, 465, 467, 468 and 471 of IPC. Thereafter, the 1st respondent filed an application enlarging him on anticipatory bail and this Court also granted anticipatory bail through an order dated 02.07.2024 on condition that the petitioner has to deposit a sum of Rs.1 lakh to the credit of Sri Ramachandra Institute of Higher Education and Research Trust and to deposit the Original Will dated 20.05.1980 by obtaining the same from the Court concerned to the



CRL M.P. No.13260 of 2024

credit of CCB Cr. No.160 of 2023 within two weeks. The petitioner shall produce the correct address of the attestors of the alleged Will dated 20.05.1980 to the investigating agency and the petitioner shall report before the respondent police until further orders. The petitioner has complied the condition in respect of deposit of sum of Rs.1 lakh to the credit of Sri Ramachandra Institute of Higher Education and Research Trust, but failed to comply the condition (c) to deposit the Original Will dated 20.05.1980, condition (e) to produce the correct address of the attestors of the alleged Will dated 20.05.1980 to the investigating agency and condition (f) to report before the respondent police daily at 10.30 a.m. until further orders. Therefore, the petitioner has not complied the conditions and therefore, the anticipatory bail granted to the petitioner is liable to be cancelled.

3. The learned counsel appearing for the 1st respondent would submit that already this Court has granted bail to the 1st respondent on some conditions and he complied all the conditions except conditions 7(c) and 7(e). This petitioner has to produce the Original Will which was



CRL M.P. No.13260 of 2024

deposited in the Court in the Probate proceedings and as per the Original side rules, once the Will is deposited for probate, it cannot be returned to the petitioner, thereby, he was unable to get return of the said Will from this Court and to deposit the same to the concerned Crime number. As far as the condition No.7(e) that the petitioner has to produce the correct address of the attestors of the alleged Will dated 20.05.1980 to the investigating agency is concerned, already the attestors of the Will have been mentioned in the Will and he has no knowledge about the correct address of the attestors. After a long period of time, the witness address is not known to the petitioner. Therefore, the said condition cannot be complied with. The petitioner has complied with the condition to appear before the respondent police and thereafter, this Court relaxed the condition. Therefore, there is no any disobedience and the breach of conditions by the petitioner and hence prayed to dismiss the petition.

4. The learned Government Advocate (Criminal side) appearing for the 2nd respondent police would contend that already this Court granted bail on some conditions. The petitioner has appeared before the



CRL M.P. No.13260 of 2024

respondent police as per the order passed by this Court and thereafter,
this Court relaxed the condition.

5. Heard both sides and perused the records.

6. This petition has been filed by the petitioner to cancel the bail granted to the petitioner on the ground that the 1st respondent has not complied with the conditions. This Court has granted bail on the following conditions:

7. Accordingly, the 1st respondent is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- with two sureties (out of which, one shall be the blood related surety), for a like sum to the satisfaction of the learned Metropolitan Magistrate for exclusive trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai, and on further conditions that,

7(b) the 1st respondent, without prejudice to his defence, is directed to deposit a sum of Rs.1,00,000/- to the credit of Sri Ramachandra Institute of Higher Education and Research Trust, Account



CRL M.P. No.13260 of 2024

No.CA6203243021, IFSC Code:IDIB000S180, Indian Bank, Porur

WEB COPY

within a period of two weeks from the date of his release;

7(c) the 1st respondent is directed to deposit the Original Will dated 20.05.1980, by obtaining the same from the Court concerned, to the credit of CCB Cr. No.160 of 2023 before the satisfaction Court within a period of two weeks from the date of his release;

7(d) the 1st respondent, at the time of furnishing sureties, shall file an affidavit stating that he will neither create any encumbrance over the subject property nor interfere with the possession of the subject property, until modified by the Court of law; and

7(e) the 1st respondent shall produce the correct address of the attestors of the alleged Will dated 20.05.1980 to the investigating agency;

7(f) the 1st respondent shall report before the respondent police daily at 10.30 a.m. until further orders;

7(g) the 1st respondent shall not abscond either during investigation or trial;

7(h) the petitioner shall not tamper with evidence or witness either



CRL M.P. No.13260 of 2024

during investigation or trial

WEB COPY

7(i) On breach of any of the aforesaid conditions, the learned Magistrate / Trial Court is entitled to take appropriate action against the 1st respondent in accordance with law as if the conditions have been imposed and the 1st respondent released on bail by the learned Magistrate / Trial Court himself as laid down by the Hon'ble Supreme Court in P.K. Shaji vs. State of Kerala [(2005) AIR SCW 5560];

7(j) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. Even according to the petitioner, except the conditions 7(c), 7(e) and 7(f), all other conditions have been complied with by the 1st respondent. As far as the condition 7(c) is concerned, this Court directed the 1st respondent to deposit the original Will dated 20.05.1980 by obtaining the same from the Court concerned to the credit of CCB Cr. No.160 of 2023. In this context, it is an admitted fact that the 1st respondent / accused has filed an application before this Court in application No.4425 of 2024 before the Original side of this Court



CRL M.P. No.13260 of 2024

seeking return of Will, but the said application was dismissed by this Court on 12.09.2024 stating that as per the rules, the Will cannot be returned to the 1st respondent. The petitioner also knows well about the rule and this Court also passed the condition to produce the Will after obtaining the same from the Court concerned. Therefore, the 1st respondent filed the said application and the same was also dismissed and the Original side rules have not permitted to return the Will. Therefore, the said condition imposed by this Court is impracticable and the petitioner also filed the petition and the same was dismissed by this Court. Therefore, the same cannot be taken as if the condition is not complied with.

8. As far as the condition No.7(e) is concerned, this Court directed the 1st respondent to produce the correct address of the attestors of the alleged Will dated 20.05.1980 to the investigating agency. Already in the Will itself, the address of the attestors have been mentioned and the date of the Will is 20.05.1980 and now it is not possible to find out the address of the attestors by the 1st respondent and he, being an accused,



CRL M.P. No.13260 of 2024

cannot do the job of the investigating agency. As far as the condition no.7(f) is concerned, this Court already relaxed the condition by holding that the petitioner has complied with the condition without any violation. Therefore, there is no any breach of conditions by the 1st respondent and he has complied the conditions. Therefore, there is no any willful breach of conditions by the 1st respondent.

9. It is well settled law that '*bail is a rule and jail is an exception*' and this Court after taking into consideration all the aspects, granted bail to the 1st respondent by imposing some conditions. Most of the conditions were complied by the 1st respondent and two conditions only have not been complied as they are impracticable. Therefore, there are no grounds to cancel the bail.

10. In view of the above discussions, this Court is of the opinion that this petition has no merits and deserves to be dismissed.

11. Accordingly, the Criminal Original Petition is dismissed. No



CRL M.P. No.13260 of 2024

costs.
WEB COPY

21.10.2024
[2/2]

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
mjs

To

1. The Metropolitan Magistrate for exclusive trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai.

2. The Public Prosecutor, High Court, Madras.

3. The Inspector of Police, Central Crime Branch, Fake Document Investigation Wing, Beta-10, Vepery, Chennai-600 007.

P.DHANABAL,J
mjs

CRL.M.P. No.13260 of 2024

10/11



WEB COPY



CRL M.P. No.13260 of 2024

21.10.2024
[2/2]