



**Crl.M.P.Nos.19618, 19621 of 2023 and
1813, 2117, 3838, 3993 & 5033 of 2024 in
Crl.O.P.Nos. 2626, 293 of 2021 and
13780, 20749, 28303, 2623, 3648 of 2023**

C.V.KARTHIKEYAN, J.

All these petitions are taken up for consideration together, since the petitioners who have obtained anticipatory bail orders on various dates, had not executed sureties for complying with the conditions, within the period of two weeks. They have filed these petitions seeking extension of time.

2. They, however, had not filed the petitions seeking extension of time within a reasonable period of time. A convention in this Court is that once an order granting anticipatory bail is passed, if the accused seeks extension of time to execute the bond and sureties, an application should be filed within three months from grant of anticipatory bail, and otherwise the Registry will not number the same.

3. These applications have been filed seeking extension of time for executing sureties for which have been passed more than three months prior to the filing of the petition. There is an alternate argument advanced on behalf of the respondents, that if the conditions stipulated viz., while granting anticipatory bail, particularly conditions issued for execution of



sureties is not complied with within a period of two weeks, then the order of anticipatory bail would lapse by itself. The other conditions which are imposed viz., to appear before the respondent police for investigation and any other condition like deposit of amount, can take effect only when sureties are executed and bond is executed by the accused, when technically the accused come under the custody of the Court before which bonds are executed and sureties are also executed. Then, if the accused absconds, under Section 446 of the Code of Criminal Procedure, the Court can take recourse to take action against the sureties to ensure that the accused would appear before the Court.

4. The learned counsel for the petitioners pointed out that there cannot be any time limit given for execution of sureties and that in most of the orders granting anticipatory bail, the said time limit is also not specifically stated. The petitioners were under an impression that if the sureties are not executed within a reasonable period of time, the order granting anticipatory bail would get lapsed by efflux of time and the petitioners apprehend that the respondent might once again jump into action and take them into custody. There would also be circumstances where the defacto complainant would also file applications seeking cancellation of bail complaining that the sureties had not been executed within a reasonable



period of time from the date of the order.

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5. The Court had the benefit of arguments being advanced by the learned counsels for the petitioners and also by the learned Government Counsel, in this regard.

6. The issue is more academic in nature and there cannot be arguments advanced in favour of the petitioners or for the respondents, but I must appreciate the very sanguine stand taken keeping in mind, the issue of law involved, that is whether the anticipatory bail order would lapse by efflux of time if the petitioners who had obtained anticipatory bail orders but had not executed sureties within a reasonable period of time.

7. I must place due appreciation for the efforts taken by Mr.R.Vinoth Raja, learned Government Advocate (Crl. Side) and Ms.J.R.Archana, learned counsel, who produced a judgment passed by the Constitution Bench in **2020 5 SCC (1), in the case of Sushila Aggarwal and others Vs. State (NCT of Delhi) and another**. The Constitution Bench had examined the following questions:

"1. Whether the protection granted to a person under Section 438 Cr.P.C. Should be limited to a fixed period so as



to enable the person to surrender before the trial Court and seek regular bail; and

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2. Whether the life of an anticipatory bail should end at the time and state when the accused is summoned by the Court. "

8. The Constitution Bench had examined both factors and finally answered the reference as follows:

"91, In view of the concurring judgments of M.R.Shah and of S.Ravindra Bhar, J with the Arun Mishra, Indira Banerjee and Vineet Saran, JJ agreeing with them, the following answers to the reference are set out:

91.1 Regarding question 1, this Court holds that the protection granted to a person under Section 438 Cr.P.C. Should not invariably be limited to a fixed period; it should ensure in favour of accused without any restriction on time. Normal conditions under Section 437 (3) read with Section 438(2) should be imposed; if there are specific facts or features in regard to any offence, it is open for the Court to impose any appropriate conditions (including fixed nature of relief, or its being tied to an event) etc.,

91.2. As regard the second question referred to this Court, it is held that the life or duration of an anticipatory bail orders does not end normally at the time and stage when the accused is summoned by the Court, or when charges are framed, by can



continue till the end of the trial. Against if there are any special or peculiar features necessitating the Court to limit the tenure of anticipatory bail, it is open for it to do so."

9. The Constitution Bench had categorically held that the life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the Court, but continues till the end of the trial, unless the Courts specifically limit the tenure of the anticipatory bail. It is to be noted that when the applications seeking anticipatory bail are filed, taking into consideration, the surrounding factors viz., the gravity of the offence, the necessity of the respondent police to take the accused under the custodial interrogation, the possibility of the accused absconding from the judicial process, the possibility of the accused tampering with the witnesses and the possibility of the accused denying the investigation process, the Courts can take a decision either to grant or deny the anticipatory bail petitions. Thereafter, to ensure that the accused does not abscond from judicial process and also adheres to the conditions stipulated, the accused is directed to execute a bond before Court where the First Information Report is lodged. At that time, two sureties are also directed to be present and execute a similar bond to ensure that the accused does not abscond from judicial process. This is a procedure. It is not the substantial order granting anticipatory bail. The substantial portion of the order is the



actual grant of anticipatory bail, wherein, to ensure the order is executed and complied with by the accused, necessarily conditions are imposed asking the accused to execute bond, and to produce sureties to ensure that the accused does not abscond.

10. I hold that there cannot be an embargo in place on the accused to execute sureties within a reasonable period of time. It would only be appropriate that the Court stipulates the period within which the sureties should be executed and since the dictum of the Constitution Bench is that an anticipatory bail order granted continues till the conclusion of trial, if an application is filed seeking for extension of time for producing sureties, such application should be considered to the advantage of the accused persons.

11. The discussion above, leads to the following conclusion:

I. While granting anticipatory bail, if the Court specifically directs the accused to execute the bond and produce sureties within a specified date, the accused has to comply with the directions diligently. If the sureties are not executed within that period extension can be granted only when plausible reasons are advanced and only when simultaneously, the prosecution does not allege that the accused had taken advantage of that



extended period of time to violate any of the conditions granting anticipatory bail; and

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2. if no time limit is fixed for execution of sureties, then, there cannot be restriction of time period placed by the Registry by any convention.

12. In the instant cases, the respondent police has not come forward with any complaint about the accused interfering with the investigation process or threatening the witnesses or tampering with the material evidences or that there is a threat of the fleeing from the justice. Therefore, I would grant extension of time for execution of sureties, till 26.04.2024 and it is made clear that no further time will be granted.

13. Accordingly, all the petitions are ordered.

27.03.2024

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C.V.KARTHIKEYAN, J.

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