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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.12.2024

Delivered on : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.29508 of 2024

Thangavel

Petitioner

Vs.

The State rep. by
The Inspector of Police,
Hogenakkal Police Station,
Dharmapuri District.
(Crime No.160/2018)

Respondent

PRAYER: Criminal Original Petition filed under Section 483(1)(b) of BNSS seeking to set aside the order passed in Crl.M.P.No.2157 of 2024 in S.C.No.21 of 2024 dated 15.10.2024 by the Principal District Sessions Judge, Dharmapuri.

For Appellant : Mr.S.Thankira

For Respondent : Mr.S.Santhosh
Government Advocate (Crl. Side)

ORDER

The present petition has been filed seeking to set aside the order passed by the Principal District Sessions Judge, Dharmapuri, whereby, the bail granted to the petitioner/A1 by order dated 28.2.2019 in Crl.M.P.No.630 of 2019 was cancelled.



2. Brief facts of the case are as under:-

i) The petitioner/A1 in Crime No.160 of 2018 on the file of the respondent police for the offence punishable under Section 302 read with 109 IPC, found to have been incarcerated from 30.11.2018 for 91 days without charge sheet having been filed, was granted statutory bail by order dated 28.2.2019 in C.M.P.No.630 of 2019.

ii) Seeking cancellation of that order, the respondent had filed CrI.M.P.No.2157 of 2024 in S.C.No.21 of 2024 on the ground that there is violation of bail conditions by the petitioner as he indulges into tampering with the witnesses and involves in criminal activities.

iii) Denying the allegations levelled against him, the petitioner had filed counter.

iv) On considering the contention of both sides, the Principal Sessions Judge, Dharmapuri by order dated 15.10.2024 had cancelled the bail granted to the petitioner herein. Challenging the same, the present petition has been filed.

3. The crux of the submission of the learned counsel appearing for the petitioner is as under:-

i) The petitioner has been complying with the conditions imposed by the court below while granting bail, however, the bail granted to him was cancelled on the petition filed by the respondent, without any valid reason therefor, after more than five years after grant of bail.



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ii) The petitioner being beneficiary of a scheme of the Government of Tamilnadu for allotment of lands at Nadar Kottai Village to the downtrodden people, a piece of land so allotted to the petitioner was sought to be grabbed by some people and in that course of action, the respondent, with an intention to aid them, had foisted a false case in Crime No.76 of 2024 against the petitioner and some others by misuse of his official capacity.

iii) The other victims of the respondent, had already obtained anticipatory bail by order of this court dated 14.10.2024 in CrI.O.P.No.24912 of 2024, wherein the respondent herein had misrepresented that prime accused in that case had been detained under goondas, whereas, none of the accused had been so detained proving the favourism on the part of the respondent.

iv) The petitioner had also been granted bail by this court in respect of Crime No.76 of 2024 by order dated 22.10.2024 in CrI.O.P.No.26222 of 2024.

v) The petitioner has not tampered with evidence or threatened any witness, instead, he has become victim in the hands of the respondent on his declining to heed to the demands of the respondents and thereby, the order passed by the court below in cancelling the bail already granted to him is liable to be set aside.



4. Narrating the factual background of the present case and enlisting the other criminal cases against the petitioner from the year 2005 till this year, learned Government Advocate (Criminal Side), vehemently opposing for grant of bail to the petitioner, submitted that the petitioner has got many criminal antecedents and thereby if the present petition is allowed, there is every possibility of his absconding and tampering with the evidence and threatening of witnesses. He also submitted that though liberty of a person accused of an offence would depend upon exigencies of the case, collective interest of community may overweigh the right of personal liberty of an individual and thereby the petitioner, who has got a criminal background, is not entitled to be shown any indulgence and sought for dismissal of the present petition.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. What is to be determined is whether there is any circumstance warranting the court below to cancel the bail already granted to the petitioner.

7. Criminal antecedents and non compilation of bail conditions have been attributed to the petitioner by the respondent police as grounds for seeking cancellation of bail, while the same having been accepted by the



court below for cancelling the bail granted to the petitioner, it is the stand taken by the petitioner that he has been strictly complying with the conditions, however false cases have been foisted against him to portray him as a habitual wrong doer to cater the needs of some real estate people in grabbing the land of the petitioner.

8. On a question whether the bail granted in one crime be cancelled merely because the accused had, in alleged violation of the conditions of bail, got himself entangled in a subsequent crime, the Kerala High Court in its order dated 3.3.2023 in CrI.M.C.No.854 of 2023 in **Renjith vs. State of Kerala**, taking the guiding principles laid down by the Apex Court in **P v. Madhya Pradesh and Another** (2022 SCC OnLine SC 552) and in **Imran vs. Muhammed Bhava** (2022 SCC OnLine SC 496) to the effect that certain supervening circumstances impeding a fair trial must develop after granting bail to an accused for its cancellation and the cancellation of bail already granted would indeed require significant scrutiny and by observing that there must be cogent and overwhelming circumstances existing to cancel the bail which should not be resorted to in a mechanical manner, has held as under:-

"The mere registration of a subsequent crime against the accused by itself cannot result in an automatic cancellation of bail. Registration of a subsequent crime is only an indication of an allegation or a complaint of the accused having been involved in a subsequent



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crime. The presumption of innocence available to the accused in the second crime, the right to liberty as a fundamental right under Article 21 of the Constitution of India which envelopes every provision of the Code of Criminal Procedure are factors which cannot be forgotten by the Court when called upon to cancel the bail. The possibility of false accusations being alleged with oblique motives also cannot be ignored. ... every case resents a unique situation and close scrutiny ought to be indulged in to identify whether overwhelming circumstances are indeed present in the subsequent crime which necessitates the cancellation of bail earlier granted."

9. In the case on hand, while there are disputed version with regard to the criminal antecedents attributed to the petitioner, the indisputable fact is that the order under challenge in the present petition having been passed on 15.10.2024, the petitioner has been granted bail by order dated 22.10.2024 passed by this court in CrI.O.P.No.26222 of 2024 in respect of the latest case filed against the petitioner in Crime No.76 of 2024 wherein also pendency of 14 previous cases against the petitioner has been projected against the petitioner and the the case of the prosecution has been referred to as a scuffle on a property dispute.



10. In the circumstances of the case, the order passed by the court below in cancelling the bail already granted to the petitioner, on the ground of criminal antecedents and the allegation that he could tamper with the evidence or threaten the witnesses, cannot be sustained. As a result, the order passed by the Principal District Sessions Judge, Dharmapuri dated 15.10.2024 in CrI.M.P.No.2157 of 2024 in S.C.No.21 of 2024 is set aside and the order passed by the District Munsif cum Judicial Magistrate, Pennagaram dated 28.2.2019 in CrI.M.P.No.630 of 2019 is restored. The Criminal Original Petition is allowed.

20.12.2024

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No
ssk.

To

1. Principal District Sessions Judge,
Dharmapuri.
2. The Inspector of Police,
Hogenakkal Police Station,
Dharmapuri District.
3. The Public Prosecutor,
High Court of Madras. Madras.



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A.D.JAGADISH CHANDIRA,J.

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P.D. ORDER IN
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