



CrI.O.P.No.28255 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2024

CORAM

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

CrI.O.P.No.28255 of 2023

K.Swagath

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
N-2, Kasimedu Police Station,
Chennai - 600 013.
(Crime No.8 of 2023)

2.V.Prem Ranka

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(2) of Cr.P.C.,
praying to set aside the order of dismissal passed in CrI.M.P.No.14853 of
2023 on the file of the Sessions Judge, Chennai in Cr.No.8 of 2023 on the
file of the first respondent.

For Petitioner : Mr.C.Panneerselvam

For Respondent : Mr. R. Vinothraja
Government Advocate (CrI. Side)



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ORDER

The petition has been filed seeking cancellation of anticipatory bail granted to the accused by the order dated 09.01.2023 in Crl.M.P.No.543 of 2023 by the learned Principal Sessions Judge, Chennai.

2. On a complaint given by the petitioner herein, the respondent, after direction issued by the learned XVI Metropolitan Magistrate, George Town, Chennai, by an order dated 27.12.2022 in Crl.M.P.No.12612 of 2022 had registered FIR in Crime No.8 of 2023 under Sections 406 and 420 IPC.

3. The entire issue surrounds purchase of gold rings from the shop of the accused and allegation that the gold as contained in ring were not in conformity with the percentage of purity as declared by the accused. These are issues for trial and let me not deal any further on that particular aspects.

4. The petitioner/defacto complainant had grievances about the manner in which investigation proceeded and to that extent, had approached this Court in Crl.RC.No.2280 of 2023 and a learned single judge of this Court had directed the respondent to file a status report with respect to the investigation conducted.



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5.It is seen that the progress of investigation is being directly monitoring by a learned Single Judge of this Court in parallel proceedings.

6.In this petition, the defacto complainant urges that the anticipatory bail granted to the petitioner should be cancelled, because, it is stated that the learned Principal Sessions Judge, Chennai had wrongly appreciated, rather not appreciated the allegation relating to purity of gold by the accused.

7. It must be emphasised that grant or denial of anticipatory bail is discretionary of the Presiding Officer who examines such petition. Unless perversity is glaring in the order and perversity with intention is established, the nature of the reason could not be directly interfered with. If the accused had not complied with any of the conditions imposed while granting bail or anticipatory bail, the defacto complainant has every right to raise objections and seeks interference with the order granting anticipatory bail or bail, but now, the focus of the defacto complainant is on the nature of the



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investigation conducted.

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8. Since in Crl.RC.No.2280 of 2023, a direction had already issued to file a status report relating to the investigation, the issue of cancellation of anticipatory bail does not arise as an date.

9.The petitioner can await for the status report and then take an appropriate decision to move forward.

10.At this stage, without entering into any observations on merits, this Criminal Original Petition stands dismissed.

21.03.2024

rjr



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C.V.KARTHIKEYAN, J.

rjr

To

- 1.The Principal Sessions Judge, Chennai.
2. The XVI Metropolitan Magistrate, George Town, Chennai.
- 3.The Inspector of Police,
N-2, Kasimedu Police Station,
Chennai - 600 013.
4. The Public Prosecutor,
High Court of Madras.

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